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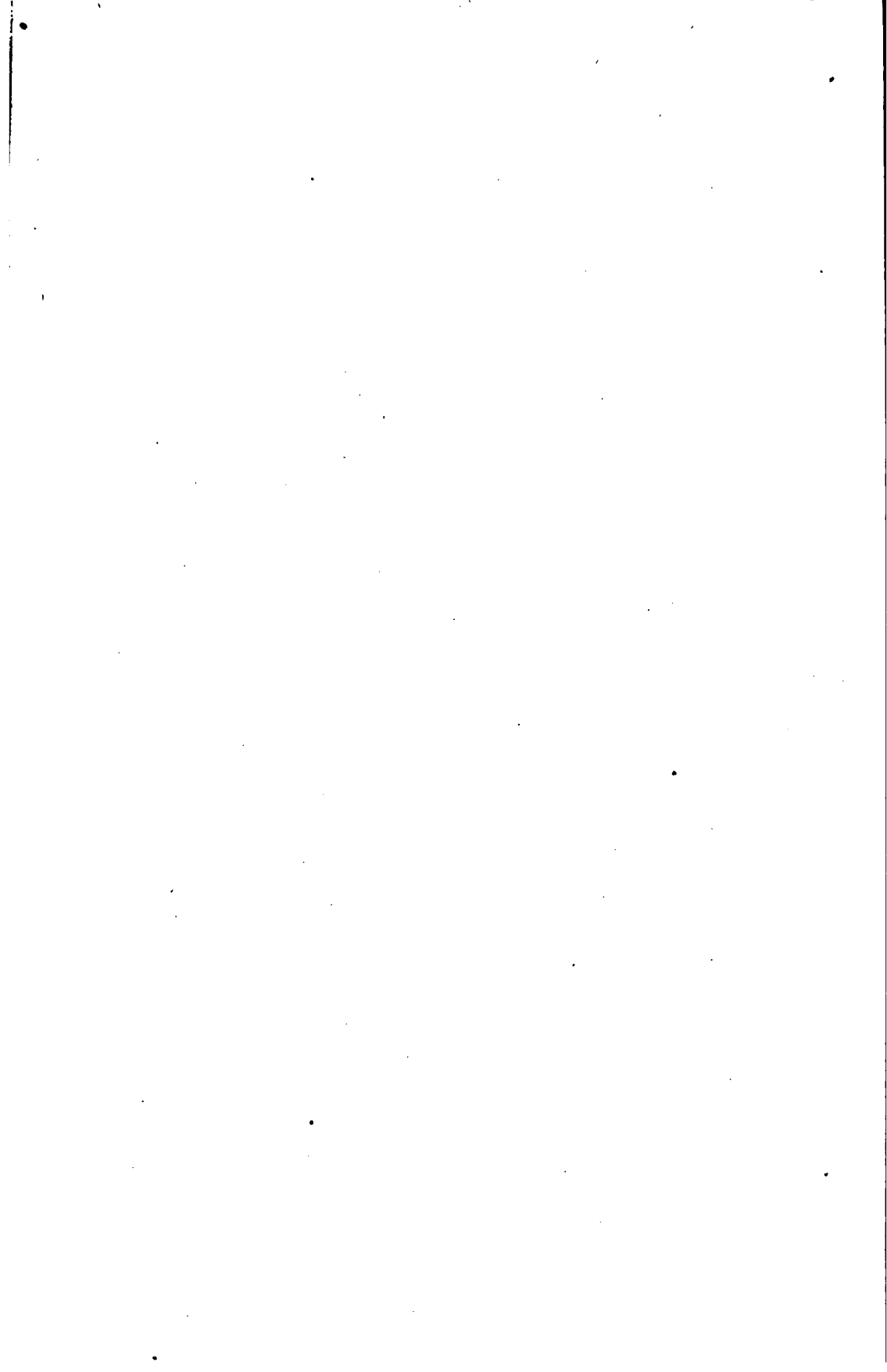


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JOURNAL  
OF  
THE SENATE  
OF THE  
STATE OF MICHIGAN

41848

SPECIAL SESSION, 1892

Printed by virtue of an Act of the Legislature, under the direction  
and supervision of

ALFRED J. MURPHY

Secretary of the Senate

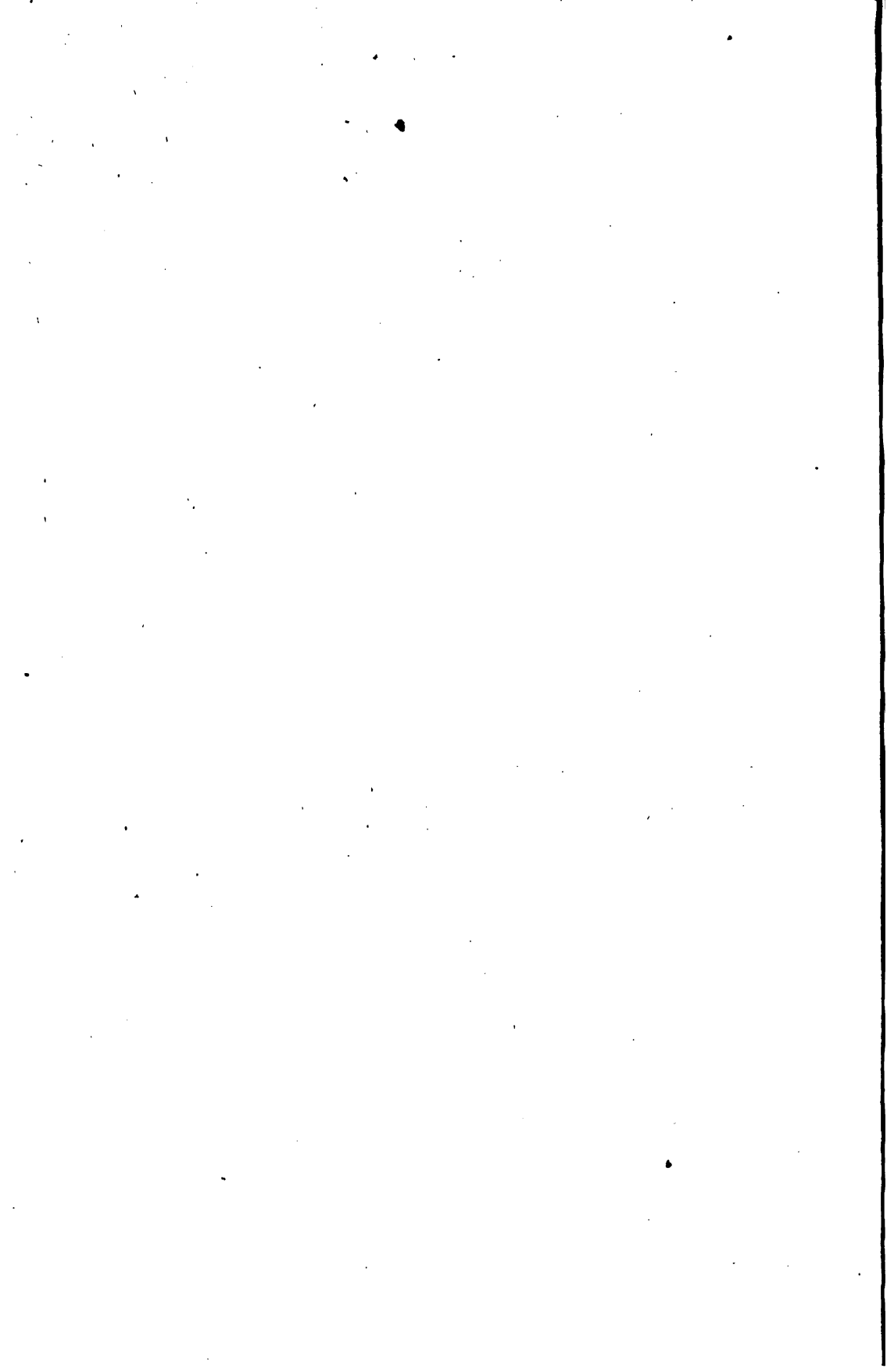


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LANSING:  
ROBERT SMITH & Co., STATE PRINTERS AND BINDERS,  
1892.



# SENATE JOURNAL.

SPECIAL SESSION, 1892.

*Lansing, Friday, August 5, 1892.*

Pursuant to a proclamation by the Governor, the Senate convened in the Senate chamber of the capitol in Lansing, at 12 o'clock M., and was called to order by Hon. John Strong, Lieutenant Governor and President of the Senate.

Religious exercises by Rev. Mr. Jordan of Lansing.

The roll of the Senate was called by the Secretary, Alfred J. Murphy, and the following named Senators answered to their names:

Mr. Benson	Mr. Garvelink	Mr. Park	Mr. Taylor
Beers	Gilbert	Porter	Toan
Boughner	Holcomb	Prindle	Weiss
Brown	McCormick	Sabin	Wheeler
Crocker	Miller	Sharp	Wilcox
Doran	Milnes	Smith	Wilkinson
Fleishiem	Morrow	Stevens	Withington
Fridlender	Mugford		

The President announced that a quorum of the Senate was present.

Mr. Morrow offered the following resolution:

*Resolved*, That the rules of the Senate for the session of 1891, except rule 22, be and are hereby adopted as the rules for this session.

Mr. Milnes moved that the resolution do lie upon the table;

Which motion did not prevail, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Brown,	Mr. Milnes,	Mr. Taylor,	Mr. Wheeler,
Fleishiem,	Prindle,	Toan,	Wilkinson,
Garvelink,	Sabin,	Weiss,	Withington.
Holcomb,	Stevens,		14

## NAYS.

Mr. Benson,	Mr. Doran,	Mr. Miller,	Mr. Porter,
Beers,	Fridlender,	Morrow,	Sharp,
Boughner,	Gilbert,	Mugford,	Smith,
Crocker,	McCormick,	Park,	Wilcox.
			16

The question being on the adoption of the resolution,

Mr. Milnes arose to a point of order, his point being that the resolution was not in order, the rules of the session of 1891 being still in force.

The chair announced that the point was not well taken, but that the

Senate, until action to the contrary was taken, was acting under accepted parliamentary law.

Mr. Milnes thereupon appealed from the decision of the chair.

Mr. Crocker moved that the appeal do lie on the table;

Which motion prevailed, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Sharp	
Boughner	Gilbert	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	16

#### NAYS.

Mr. Fleshier	Mr. Prindle	Mr. Taylor	Mr. Wheeler	
Garvelink	Sabin	Toan	Wilkinson	
Holcomb	Stevens	Weiss	Withington	
Milnes				13

The question recurring on the adoption of the resolution,

Mr. Taylor moved that the resolution be referred to the committee on rules.

Pending the taking of a vote thereon,

The Sergeant-at-Arms announced a committee from the House, which committee thereupon informed the Senate that the House was in session and ready for business.

The question being on the motion by Mr. Taylor, that the resolution be referred to the committee on rules,

Mr. Smith moved that the previous question be ordered.

The question being,

Shall the main question now be put?

The same prevailed, and the previous question was ordered,

Mr. Taylor calling for the yeas and nays, and the Senators voting thereon by yeas and nays as follows:

#### YEAS

Mr. Beers	Mr. Fridlender	Mr. Milnes	Mr. Porter	
Boughner	Gilbert	Morrow	Sharp	
Crocker	McCormick	Mugford	Smith	
Doran	Miller	Park	Wilcox	16

#### NAYS.

Mr. Benson	Mr. Holcomb	Mr. Stevens	Mr. Weiss	
Brown	Prindle	Taylor	Wheeler	
Fleshier	Sabin	Toan	Wilkinson	
Garvelink				13

The previous question being ordered,

Mr. Milnes moved that the Senate do now adjourn;

Which motion did not prevail, Mr. Milnes calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Fleshier	Mr. Holcomb	Mr. Taylor	Mr. Wilkinson	
Garvelink	Stevens	Wheeler		7

## NAYS.

Mr. Benson	Mr. Gilbert	Mr. Mugford	Mr. Smith
Beers	McCormick	Park	Toan
Boughner	Miller	Porter	Weiss
Crocker	Milnes	Sabin	Wilcox
Doran	Morrow	Sharp	Withington
Fridlender			21

Mr. Milnes moved that the Senate take a recess until 2:30 o'clock, P. M.  
Which motion prevailed.

The Senate thereupon took a recess until 2:30 o'clock, P. M.

## AFTER RECESS.

The Senate met and was called to order by the President at 2:30 o'clock P. M.

Roll called; a quorum present.

The question recurring on Mr. Taylor's motion to refer the resolution offered by Mr. Morrow to the committee on rules,

By unanimous consent,

The resolution was so referred.

The proclamation of the Governor was then read by the President as follows:

## PROCLAMATION OF THE GOVERNOR.

HON. JOHN STRONG, *President of the Senate*:

I herewith hand you a certified copy of the proclamation by the Governor of the State of Michigan, convening the legislature of said State.

Very respectfully,

ROBERT R. BLACKER,  
*Secretary of State.*

STATE OF MICHIGAN, }  
*Office of the Secretary of State.* } ss.

I, Louis E. Rowley, Deputy Secretary of State of the State of Michigan, do hereby certify that I have compared the annexed copy of the proclamation by the Governor of the State of Michigan convening the legislature of said State with the original filed in this office, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Michigan, at Lansing, this 5th day of August in the year of our Lord one thousand eight hundred and ninety-two.

[SEAL.]

LOUIS E. ROWLEY,  
*Deputy Secretary of State.*

## PROCLAMATION BY THE GOVERNOR.

WHEREAS, It appears from a decision of the Supreme Court of the State rendered July 28, 1892, that the apportionment acts passed by the legislatures of 1885 and 1891 are unconstitutional and void, for reasons stated in the opinion; and

WHEREAS, It appears that the apportionment acts of 1881 are subject to



the same constitutional objections, besides being now inequitable by reason of the increase of population, and impracticable by reason of changes in county, city and ward boundaries; and

WHEREAS, Relief can only be afforded the people of the State by convening the legislature in special session for the purpose of framing new measures of apportionment, which duty is directed by the constitution to be performed after each enumeration of the inhabitants; now

Therefore, I, Edwin B. Winans, Governor of the State of Michigan, by virtue of the authority vested in me by the constitution, do hereby convene the legislature of the State in special session, requiring the Senators and Representatives to assemble in their respective chambers at the Capitol in the city of Lansing, on Friday, the fifth day of August, A. D. 1892, at twelve o'clock noon, for the purpose of rearranging the senate districts, and apportioning anew the representatives among the counties and districts, and for the transaction of such other business as may be laid before them.

In testimony whereof, I have hereunto set my hand, and caused to be affixed the great seal of the State, at the  
[SEAL.] Capitol, this first day of August, in the year of our Lord one thousand, eight hundred and ninety-two.

By the Governor:

EDWIN B. WINANS, *Governor*.

ROBERT R. BLACKER, *Secretary of State*.

Mr. Doran moved that a committee of three be appointed to inform the House that the Senate was in session and ready for business;

Which motion prevailed.

The chair thereupon appointed as such committee, Messrs. Doran, Miller and Milnes.

#### MOTIONS AND RESOLUTIONS.

Mr. Porter offered the following resolution:

*Resolved*, That the Committee on Finance and Appropriations be and is hereby directed to ascertain and report to the Senate the number of miles of travel for which each member, officer and employé will be entitled to draw mileage.

The question being on the adoption of the resolution,

The resolution was adopted.

The committee appointed to inform the House that the Senate was in session and ready for business, returned and reported that they had performed that duty.

Report accepted and committee discharged.

The Sergeant-at-Arms announced a committee from the House.

The committee reported that they had been appointed to act with a like committee from the Senate and wait upon the Governor, and inform him that the House was organized and ready for business, and to inquire at what time he will be pleased to communicate with them.

Mr. Fridlender offered the following resolution:

*Resolved*, That a committee of three be appointed by the President, to act with the committee of the House, and wait upon the Governor, informing him that the legislature is organized and ready for business, and ready to receive any communication he may have to make.

The question being on the adoption of the resolution,

The resolution was adopted.

The President appointed Messrs. Fridlender, Sharp and Garvelink as such committee.

The committee appointed to wait upon the Governor returned and reported that they had performed that duty and that the Governor was ready to meet the Legislature at any time appointed.

Report accepted and committee discharged.

The Sergeant-at-Arms announced a committee from the House.

The committee reported that the House was in readiness to meet the Senate in joint convention at 4 o'clock P. M.

Mr. Fridlender offered the following resolution:

*Resolved*, That the Senate meet the House in joint convention at 4 o'clock, P. M.

The question being on the adoption of the resolution,

The resolution was adopted.

The Senate then proceeded to the hall of the House of Representatives to meet the House in joint convention.

The Senate returned to the Senate chamber and was called to order by the President.

The President announced that the Senate had met the House of Representatives in joint convention, and had listened to the message of the Governor, Hon. Edwin B. Winans.

[For proceedings in joint convention see House Journal.]

On motion of Mr. Morrow,

The Senate took a recess for one hour.

#### AFTER RECESS.

The Senate met at 6 o'clock P. M. and was called to order by the President.

A quorum present.

Mr. Wheeler moved that the Senate adjourn until tomorrow at 9 o'clock A. M.

Mr. Taylor moved as an amendment that the Senate adjourn until tomorrow at 10 o'clock A. M.

Mr. Crocker moved as an amendment that the Senate adjourn until tomorrow at 1 o'clock P. M.;

Which motion to amend did not prevail.

Mr. Taylor's motion to amend having been withdrawn,

The question being on the original motion by Mr. Wheeler,

The same did not prevail, Mr. Milnes calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Flesheim	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			

13

#### NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlender	Morrow	Sharp
Boughner	Gilbert	Mugford	Smith
Brown	McCormick	Park	Wilcox
Crocker			

17

Mr. Milnes moved that the Senate take a recess until 8 o'clock, P. M.  
Which motion did not prevail, Mr. Milnes calling for the yeas and nays,  
and the Senators voting thereon, by yeas and nays as follows:

## YEAS.

Mr. Brown	Mr. Milnes	Mr. Stevens	Mr. Wheeler
Fleishem	Prindle	Taylor	Wilkinson
Garvelink	Sabin	Toan	Withington
Holcomb	Sharp	Weiss	15

## NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlender	Morrow	Smith
Boughner	Gilbert	Mugford	Wilcox
Crocker	McCormick	Park	President 16

Mr. Milnes moved that the Senate take a recess until 7:30 o'clock P. M.;  
Which motion did not prevail.

## REPORTS OF STANDING COMMITTEES.

The committee on rules made the following report:

By the committee on rules and joint rules:

The committee on rules and joint rules to whom was referred the following resolution:

*Resolved*, That the rules of the Senate for the session of 1891, except rule 22, be and are hereby adopted as the rules for this session,

Respectfully report that they have had the same under consideration, and have directed me to report the same back to the Senate without amendment and recommend that for the purpose of expediting business, saving expense, and shortening the session, the resolution be adopted, and ask to be discharged from further consideration of the subject.

PETER GILBERT, *Chairman*.

The question being on the adoption of the report,

Mr. Milnes arose to a point of order, his point being the claim that the chair having ruled that the rules of the session of 1891 were not in existence, that therefore the committee on rules was not in existence.

The President announced the point of order not well taken.

Mr. Milnes thereupon appealed from the decision of the chair.

The question being, Shall the decision of the chair stand as the judgment of the Senate?

Mr. Smith moved that the appeal do lie on the table;

Which motion prevailed, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Beers	Mr. Fridlender	Mr. Morrow	Mr. Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox
Doran	Miller	Porter	15

## NAYS

Mr. Fleishem	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			13

The question being on the adoption of the report,

Mr. Milnes rose to a point of order, his point being that his previous appeal having been laid on the table, such action carried the entire subject matter with it.

The chair announced the point of order not well taken.

The question being on the adoption of the report,

Mr. Taylor moved that the report be amended by striking out the words "except rule twenty-two" and that the said rule be amended by making the notice required to be two days instead of one day.

The question being on the amendment offered by Mr. Taylor,

Mr. Milnes moved that the amendment do lie on the table;

Which motion prevailed, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Benson	Mr. Holcomb	Mr. Stevens	Mr. Wheeler
Boughner	Milnes	Taylor	Wilkinson
Fleishem	Prindle	Toan	Withington
Garvelink	Sabin	Weiss	15

#### NAYS.

Mr. Beers	Mr. Gilbert	Mr. Mugford	Mr. Sharp
Crocker	McCormick	Park	Smith
Doran	Miller	Porter	Wilcox
Fridlender	Morrow		14

The question recurring on the adoption of the report of the committee,

Mr. Taylor rose to a point of order, his point being that his motion to amend having been laid on the table, the subject matter of the report was also laid on the table.

The chair announced that the point of order was well taken.

By unanimous consent,

Mr. Brown gave notice that on some future day he would ask leave to introduce

A bill to divide the State into thirty-two senatorial districts.

By unanimous consent,

• Mr. Withington gave notice that on some future day he would ask leave to introduce

A bill for the apportionment of Senators in the State legislature.

By unanimous consent,

Mr. Morrow gave notice that on some future day he would ask leave to introduce

A bill to apportion Senators in the State legislature.

By unanimous consent,

Mr. Morrow gave notice that on some future day he would ask leave to introduce

A bill to apportion representatives in the State legislature.

By unanimous consent,

Mr. Wheeler offered the following resolution:

*Resolved*, That the Secretary of the Senate be and he is hereby instructed to order (500) five hundred copies of the daily journal for the use of the Senate.

The question being on the adoption of the resolution,

Mr. Fridlender moved to amend the same by striking out the words

"five hundred" and inserting in lieu thereof the words "three hundred."

Mr. Taylor moved to amend the amendment by striking out the words "three hundred" and inserting in lieu thereof the words "six hundred,"

Which motion to amend did not prevail.

The question being on the amendment offered by Mr. Fridlender,

The same prevailed.

The question then being on the adoption of the resolution as amended,

The resolution was adopted.

Mr. Withington moved that the Senate adjourn until tomorrow at 9 o'clock A. M.,

Which motion did not prevail, Mr. Park calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Brown	Mr. Milnes	Mr. Taylor	Mr. Wheeler
Fleishem	Prindle	Toan	Wilkinson
Garvelink	Sabin	Weiss	Withington
Holcomb	Stevens		
			14

#### NAYS.

Mr. Beers	Mr. Fridlender	Mr. Morrow	Mr. Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox
Doran	Miller	Porter	
			15

By unanimous consent,

Mr. Wheeler offered the following resolution:

*Resolved*, That the Secretary of the Senate procure from the clerk of the Supreme Court a certified copy of the opinions of the court on the reapportionment cases and have the same published.

The question being on the adoption of the resolution,

The resolution was adopted.

By unanimous consent,

Mr. Taylor gave notice that on some future day he would introduce

A bill to rearrange the senatorial districts of the State of Michigan. .

By unanimous consent,

Mr. Beers gave notice that on some future day he would ask leave to introduce

A bill for the apportionment of Senators in the State legislature.

By unanimous consent,

Mr. Gilbert gave notice that on some future day he would ask leave to introduce

A bill to divide the State into legislative districts.

By unanimous consent,

Mr. Stevens gave notice that on some future day he would ask leave to introduce a bill entitled

A bill to redistrict the State of Michigan into senatorial districts.

Mr. Crocker moved that the Senate take a recess until 8 o'clock P. M.

Mr. Weiss moved as an amendment that the Senate take a recess until 10 o'clock P. M.

Mr. Fridlender moved as an amendment to the amendment that the Senate take a recess until 8:30 o'clock P. M.

Which motion to amend did not prevail.

The question being on the amendment offered by Mr. Weiss the same prevailed, Mr. Park calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Garvelink	Mr. Prindle	Mr. Toan
Brown	Holcomb	Sabin	Weiss
Doran	Milnes	Sharp	Wilkinson
Fleishiem	Mugford	Stevens	Withington.
Fridlender	Porter	Taylor	19

## NAYS.

Mr. Beers	Mr. Gilbert	Mr. Morrow	Mr. Smith
Boughner	McCormick	Park	Wilcox.
Crocker	Miller		10

The question then being on the original motion, as amended, the same prevailed.

The Senate thereupon took a recess until 10 o'clock P. M.

## AFTER RECESS.

The Senate met and was called to order by the President.

A quorum present.

Mr. Morrow moved that the amendment offered by Mr. Taylor to the report of the committee on rules be taken from the table;

Which motion prevailed, Mr. Morrow calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Crocker	Mr. McCormick	Mr. Park
Beers	Doran	Miller	Porter
Boughner	Fridlender	Morrow	Smith
Brown	Gilbert	Mugford	Wilcox
			16

## NAYS.

Mr. Fleishiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			13

Mr. Morrow moved that the previous question, namely, the adoption of the amendment to the report of the committee on rules, offered by Mr. Taylor, be ordered.

The question being, Shall the main question now be put?

Mr. Milnes moved that the motion to order the previous question do lie on the table;

Which motion did not prevail, Mr. Milnes calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleshiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Milnes	Stevens	Weiss	Withington

12

## NAYS.

Mr. Benson	Mr. Fridlender	Mr. Miller	Mr. Porter
Beers	Gilbert	Morrow	Sharp
Boughner	Holcomb	Mugford	Smith
Crocker	McCormick	Park	Wilcox
Doran			

17

The question again being, Shall the main question now be put?  
The same prevailed, Mr. Morrow calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Crocker	Mr. McCormick	Mr. Park
Beers	Doran	Miller	Porter
Boughner	Fridlender	Morrow	Smith
Brown	Gilbert	Mugford	Wilcox

16

## NAYS.

Mr. Fleshiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			

13

The question then being on the adoption of the amendment offered by Mr. Taylor to the report of the committee on rules.

Mr. Milnes rose to a point of order, his point being that the amendment, being in the hands of the printer, was not then in the possession of the Senate.

The chair declared the point of order not well taken.

Mr. Milnes thereupon appealed from the decision of the chair.

Mr. Morrow moved that the appeal do lie on the table;

Which motion prevailed, Mr. Milnes calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Beers	Mr. Fridlender	Mr. Morrow	Mr. Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox
Doran	Miller	Porter	

15

## NAYS.

Mr. Brown	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Fleishiem	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			

13

Mr. Stevens moved that the Senate adjourn until 9:30 o'clock A. M. tomorrow.

Mr. Milnes moved as an amendment that the Senate adjourn until 10 o'clock A. M. tomorrow.

Which motion to amend did not prevail, Mr. Milnes calling for the yeas and nays, and the senators voting thereon, by yeas and nays as follows:

## YEAS.

Mr. Fleshier	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			13

## NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlander	Morrow	Sharp
Boughner	Gilbert	Mugford	Smith
Brown	McCormick	Park	Wilcox
Crocker			17

The question being on the original motion,

The same did not prevail, Mr. Stevens calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleshier	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	Withington
Milnes			13

## NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlander	Morrow	Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox
			16

The question being on the adoption of the amendment offered by Mr. Taylor to the report of the committee on rules,

The amendment did not prevail, Mr. Morrow calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleshier	Mr. Prindle	Mr. Toan	Mr. Wheeler
Milnes	Sabin	Weiss	Wilkinson
			8

## NAYS.

Mr. Benson	Mr. Doran	Mr. McCormick	Mr. Porter
Beers	Fridlander	Miller	Sharp
Boughner	Garvelink	Morrow	Smith
Brown	Gilbert	Mugford	Taylor
Crocker	Holcomb	Park	Wilcox
			20

Mr. Taylor gave notice that on some future day he would move to recon-



sider the vote by which his amendment to the report of the committee failed to pass.

The question then recurring on the adoption of the report of the committee,

Mr. Morrow moved that the previous question be ordered.

Mr. Milnes moved that the motion that the previous question be ordered do lie on the table;

Which motion did not prevail, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleshiem	Mr. Milnes	Mr. Stevens	Mr. Wheeler
Garvelink	Prindle	Toan	Wilkinson
Holcomb	Sabin	Weiss	Withington 12

## NAYS.

Mr. Benson	Mr. Doran	Mr. Morrow	Mr. Sharp
Beers	Fridlender	Mugford	Smith
Boughner	Gilbert	Park	Taylor
Brown	McCormick	Porter	Wilcox
Crocker	Miller		18

The question being, Shall the main question now be put?

The same prevailed, Mr. Doran calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlender	Morrow	Sharp
Boughner	Gilbert	Mugford	Smith
Brown	McCormick	Park	Wilcox
Crocker			17

## NAYS.

Mr. Fleshiem	Mr. Milnes	Mr. Stevens	Mr. Weiss
Garvelink	Prindle	Taylor	Wilkinson
Holcomb	Sabin	Toan	Withington 12

The question being on the adoption of the report of the committee on rules, the same prevailed, and the committee was discharged from further consideration of the subject.

Mr. Doran calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Friedlender	Mr. Morrow	Mr. Sharp
Beers	Gilbert	Mugford	Smith
Boughner	McCormick	Park	Taylor
Crocker	Miller	Porter	Wilcox
Doran			17

## NAYS.

Mr. Brown	Mr. Milnes	Mr. Stevens	Mr. Wheeler
Fleishem	Prindle	Toan	Wilkinson
Garvelink	Sabin	Weiss	Withington
Holcomb			13

Mr. Milnes offered the following protest, which was ordered spread on the Journal as follows:

*To the President of the Senate:*

We, the undersigned, members of the Senate, hereby protest against the action of the Senate in assuming to adopt as the rules of this Senate for the present session of the legislature "the rules of the Senate of 1891 except rule number 22," for the following reasons, to-wit:

1. Such action assumes that the present Senate is another and different body from "the Senate of 1891," whereas these protestants insist that this Senate when it convened was the same identical Senate as the Senate of 1891, composed of the same members and officers and governed by the same rules.

2. Such action assumes that when this Senate assembled it was wholly without rules of order, whereas these protestants insist that the rules of the Senate of 1891 were still in full force and effect for the government of this body, which is the same Senate which adopted them, and further insist that those rules, nor any one of them, cannot be amended, altered or suspended except by a vote of two-thirds of all the Senators present and voting.

3. Such action in assuming to adopt rules already in full force and effect, except rule number 22, is but an indirect way of suspending a rule obnoxious to a mere majority, without a two-thirds vote of the Senators.

4. Such action, being in effect but a suspension of rule number 22, could be taken only by a two-thirds vote, whereas it received only a vote of a bare majority.

For the above reasons we protest against such action of the Senate, and ask to have this protest, with our reasons therefor, entered upon the Journal of the Senate.

(Signed)

A. MILNES,  
J. W. GRAVELINK,  
R. R. WILKINSON,  
JOHN H. D. STEVENS,  
F. L. PRINDLE,  
WILLIAM TOAN.

Mr. Crocker moved that the vote by which the report of the committee on rules was adopted be reconsidered.

Mr. Morrow moved that the motion to reconsider do lie on the table.

Pending the taking of a vote thereon,

Mr. Taylor moved that the Senate take a recess for 25 minutes;

Which motion did not prevail, Mr. Taylor calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleishem	Mr. Milnes	Mr. Stevens	Mr. Wilkinson
Garvelink	Prindle	Taylor	Withington
Holcomb	Sabin	Wheeler	11

## NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Sharp	
Boughner	Gilbert	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	16

Mr. Milnes moved that the Senate adjourn;

Which motion did not prevail, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Fleshiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler	
Garvelink	Sabin	Toan	Wilkinson	
Holcomb	Stevens	Weiss	Withington	
Milnes				13

## NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Sharp	
Boughner	Gilbert	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	16

The question recurring on the motion by Mr. Morrow, that the motion for a reconsideration of the vote by which the report of the committee on rules was adopted do lie on the table,

The same prevailed, Mr. Morrow calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Smith	
Boughner	Gilbert	Mugford	Wilcox	15
Crocker	McCormick	Park		

## NAYS

Mr. Fleishiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler	
Garvelink	Sabin	Toan	Wilkinson	
Holcomb	Stevens	Weiss	Withington	12

Mr. Taylor moved to reconsider the vote by which the report of the committee on rules was adopted.

The chair ruled that the motion was out of order, holding that the proper procedure would be to take from the table the motion to reconsider which had been previously made,

Whereupon, Mr. Taylor appealed from the decision of the Chair.

The question being, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. McCormick moved that the appeal do lie on the table;

Which motion prevailed, Mr. Taylor calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Sharp	
Boughner	Gilbert	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	16

## NAYS.

Mr. Brown	Mr. Milnes	Mr. Stevens	Mr. Wheeler
Fleishem	Prindle	Taylor	Wilkinson
Garvelink	Sabin	Toan	Withington
Holcomb			13

Mr. Morrow moved that the Senate do proceed with the regular order of business.

Pending the taking of a vote thereon,

Mr. Taylor moved that the Senate adjourn;

Which motion did not prevail, Mr. Taylor calling for the yeas and nays, and the Senators voting thereon by yeas and nays, as follows:

## YEAS.

Mr. Fleishem	Mr. Milnes	Mr. Stevens	Mr. Wheeler
Gravelink	Prindle	Taylor	Wilkinson
Holcomb	Sabin	Toan	Withington
			12

## NAYS.

Mr. Beers	Mr. Fridlender	Mr. Morrow	Mr. Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox
Doran	Miller	Porter	15

The question being on the motion to proceed with the regular order of business,

The same prevailed, Mr. Morrow calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Fridlender	Mr. Milnes	Mr. Porter
Beers	Gilbert	Morrow	Sharp
Boughner	McCormick	Mugford	Smith
Crocker	Miller	Park	Wilcox
Doran			17

## NAYS.

Mr. Fleishem	Mr. Prindle	Mr. Taylor	Mr. Wheeler
Garvelink	Sabin	Toan	Wilkinson
Holcomb	Stevens	Weiss	11

## PRESENTATION OF PETITIONS.

Mr. Milnes offered a petition asking for the appointment of a special committee to investigate the title of Mr. Fridlender to a seat in the Senate.

Mr. Park moved that the petition do lie on the table;

Pending the taking of a vote thereon,

Mr. Fridlender rose to a question of privilege, stating his question as follows:

*Mr. President:*

Referring to the petition offered by the Senators from the opposite side, I wish to invite your attention to the official Journal of the Senate, page

319, where it appears that after obtaining unanimous consent of the Senate, I introduced several bills that were referred to the proper committees. These bills were subsequently passed. Then was the time and there the place to offer such a document as this. And now, Mr. President, in reference to the charge that I have changed my residence, I wish to say that during the past year, while I acted as a commercial traveler I traveled all over the State and never registered at any place but as hailing from Oscoda. True, if I had found remunerative employment in Detroit, I would have moved there and become a resident of that city; but I found no such employment and I returned home where I have been ever since.

I have never registered any where for the purpose of voting, nor voted any where but in Oscoda, and at our last school election I was clerk of the election board, and I challenge any Senator or any man in Michigan to question my right to hold a seat in this Senate.

My residence at Oscoda has been maintained continuously. I have been and am a qualified elector there and at no other place since my election as a Senator.

The question being on the motion that the petition do lie on the table, The same prevailed, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon by yeas and nays, as follows:

## YEAS.

Mr. Beers	Mr. Gilbert	Mr. Morrow	Mr. Sharp	
Boughner	Holcomb	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	
Doran	Miller	Porter		15

## NAYS.

Mr. Brown	Mr. Milnes	Mr. Taylor	Mr. Wheeler	
Fleishem	Sabin	Toan	Wilkinson	
Garvelink	Stevens	Weiss	Withington	
				12

## INTRODUCTION OF BILLS.

Mr. Brown introduced  
Senate Bill No. 1, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Morrow introduced  
Senate bill No. 2, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Beers introduced  
Senate bill No. 3, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Taylor introduced  
Senate bill No. 4, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Crocker introduced

Senate bill No. 5, entitled

A bill to apportion representatives to the State legislature among the several counties in the State.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Withington introduced

Senate Bill No. 6, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Gilbert introduced

Senate Bill No. 7, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Gilbert introduced

Senate bill No. 8, entitled

A bill to apportion Representatives to the State legislature among the several counties of the State.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. McCormick introduced

Senate bill No. 9, entitled

A bill to apportion Representatives to the State legislature among the several counties of the State.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. McCormick introduced

Senate bill No. 10, entitled

A bill for the apportionment of Senators in the State legislature.

The bill was read a first and second time by its title, ordered printed, and referred to the committee on apportionment.

Mr. Doran moved that the Senate adjourn until tomorrow at 9 o'clock A. M.

Mr. Weiss moved as an amendment, that the Senate adjourn until tomorrow at 10 o'clock, A. M.

Which motion to amend did not prevail, Mr. Weiss calling for the yeas and nays and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Fleshiem	Mr. Prindle	Mr. Taylor	Mr. Wilkinson
Garvelink	Sabin	Wheeler	Withington
Holcomb	Stevens		

10

#### NAYS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlender	Morrow	Sharp
Boughner	Gilbert	Mugford	Smith
Crocker	McCormick	Park	Wilcox

16

The question being on the original motion, the same prevailed.

The Senate thereupon adjourned until to-morrow at 9 o'clock A. M.

*Lansing, Saturday, August 6, 1892.*

The Senate met and was called to order by the President at 9 o'clock, A. M.

Roll called: a quorum present.

Absent without leave, Mr. Wilkinson.

Mr. Morrow moved that the Senate take a recess for one hour.

Mr. Milnes moved as an amendment that the Senate take a recess for two hours;

Which motion to amend did not prevail, Mr. Milnes calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Fleshiem	Mr. Prindle	Mr. Stevens	Mr. Weiss
Garvelink	Sabin	Taylor	Wheeler
Holcomb	Sharp	Toan	Withington
Milnes			

13

#### NAYS

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter
Beers	Fridlender	Morrow	Smith
Boughner	Gilbert	Mugford	Wilcox
Crocker	McCormick	Park	

15

Mr. Weiss moved as an amendment, that the Senate take a recess until 11 o'clock;

Which amendment was accepted by Mr. Morrow.

The question being on the original motion as amended,

The same prevailed.

The Senate thereupon took a recess until 11 o'clock A. M.

#### AFTER RECESS.

The Senate met at 11 o'clock A. M. and was called to order by the President.

A quorum present.

#### REPORTS OF STANDING COMMITTEES.

By the Committee on Finance and Appropriations:

The Committee on Finance and Appropriations to whom was referred the following resolution:

*Resolved*, That the Committee on Finance and Appropriations be and is hereby directed to ascertain and report to the Senate the number of miles of travel for which each member, officer and employé will be entitled to draw mileage,

Respectfully report that they have had the same under consideration, and have directed me to report as follows:

	Miles.		Miles.
Lt.-Governor Strong	220	Mr. Mugford	346
Mr. Benson	124	Park	174
Beers	322	Porter	190
Boughner	170	Prindle	255
Brown	124	Sabin	202
Crocker	214	Sharp	660
Doran	130	Smith	174
Flehiem	1050	Stevens	1403
Fridlender	334	Taylor	144
Garvelink	188	Toan	60
Gilbert	230	Weiss	174
Holcomb	430	Wheeler	392
McCormick	180	Wilcox	64
Miller	34	Wilkinson	524
Milnes	164	Withington	78
Morrow	186		

	Miles.
Alfred J. Murphy, Secretary	174
Joseph J. Emery, Assistant Secretary	134
John Andrew, Sergeant-at-Arms	376
W. H. P. Benjamin, 1st Assistant Sergeant-at-Arms	160
George W. Imus, 2d " " "	346
V. W. Bruce, Engrossing and Enrolling Clerk	200
Miss Jennie M. Pyne, Assistant Engrossing and Enrolling Clerk	202
John O'Gorman, Clerk Judiciary Committee	137
Louis D. McElroy, 1st Assistant Janitor	210
Justus G. Lamson, Bill Clerk	178
Fred Maginn, Sergeant-at-Arms' Page	120
Julius Brown, Page	174
Alexander Cohen, Page	174
Stephen Van Atten, Senate Janitor	126
John L. Jordan, Senate Janitor	164
D. T. N. Beers, Messenger	322
Frank Ransom, Secretary's Messenger	134
A. Birney Bragdon	248
Mary H. Glendenning	174
James Perrin	136

And recommend that the report be adopted and ask to be discharged from the further consideration of the subject.

PETER GILBERT, *Chairman*.

The question being on the adoption of the report, the same prevailed, and the committee was discharged from a further consideration of the subject.

#### MOTIONS AND RESOLUTIONS.

Mr. Weiss offered the following resolution:

WHEREAS, There is a vacancy in the office of President *pro tem.* of the Senate caused by the resignation of the Honorable Chauncey W. Wisner,  
*Resolved*, That we proceed immediately to the election of a President *pro tempore*.

The question being on the adoption of the resolution,



Mr. Park moved that the resolution do lie on the table;  
Which motion prevailed, Mr. Weiss calling for the yeas and nays, and the Senators voting thereon by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Doran	Mr. Miller	Mr. Porter	
Beers	Fridlender	Morrow	Sharp	
Boughner	Gilbert	Mugford	Smith	
Crocker	McCormick	Park	Wilcox	16

## NAYS.

Mr. Fleshiem	Mr. Prindle	Mr. Taylor	Mr. Wheeler	
Garvelink	Sabin	Toan	Wilkinson	
Milnes	Stevens	Weiss	Withington	12

Mr. Sabin offered the following resolution:

*Resolved,* That the Governor be and is hereby requested to furnish, pursuant to section 8 of article 12 of the constitution of the State of Michigan, at as early a moment as possible, for the information of this body, a complete statement of all facts concerning the removal or resignation of Daniel E. Soper as Secretary of State, and also as to amount of deficiency in his accounts with the State and what measures are being taken for the collection of the same.

The question being on the adoption of the resolution,

The same prevailed, Mr. Taylor calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Garvelink	Mr. Park	Mr. Toan	
Beers	Gilbert	Porter	Weiss	
Boughner	Holcomb	Pridle	Wheeler	
Brown	McCormick	Sabin	Wilcox	
Crocker	Miller	Sharp	Wilkinson	
Doran	Milnes	Smith	Withington	
Fleishiem	Morrow	Stevens		30
Fridlender	Mugford	Taylor		

## NAYS

0

By unanimous consent

The committee on apportionment made the following report:

By the select committee on apportionment:

The select committee on apportionment to whom was referred

Senate bill No. 1 (file No. 1), entitled

"A bill for the apportionment of Senators in the State Legislature,"

Respectfully report that they have had the same under consideration, and have directed me to report the same back to the Senate, with the accompanying amendments thereto, recommending that the amendments be concurred in:

By inserting in line 24 of section 1 after the word "fifth" the words "sixth," "seventh."

By striking out of line 24 of section 1 the word "tenth" and inserting in lieu thereof the word "twelfth."

By striking out of line 26 of section 1 the words "sixth," "seventh," and inserting in lieu thereof the words "tenth," "eleventh," and that the bill

when so amended do pass, and ask to be discharged from the further consideration of the subject.

MARTIN CROCKER, *Chairman.*

Report accepted and committee discharged.

On motion of Mr. Crocker,

The Senate concurred in the amendments made to the bill by the committee.

The bill as amended was referred to the committee of the whole, and placed on the general order.

On motion of Mr. Park,

The Senate took a recess until 2 o'clock P. M.

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#### AFTER RECESS.

The Senate met at 2 o'clock, P. M., and was called to order by the President.

A quorum present.

#### GENERAL ORDER.

By unanimous consent,

On motion of Mr. Park,

The Senate went into committee of the whole on the general order, whereupon,

The President called Mr. Withington to the chair.

After some time spent therein, the committee rose and, through their chairman, made the following report:

The committee of the whole have had under consideration the following:

Senate bill No. 1 (file No. 1), entitled

A bill for the apportionment of Senators in the State Legislature,

Have made no amendments thereto, and have directed their chairman to report the same back to the Senate and recommend its passage.

WM. H. WITHINGTON, *Chairman.*

Report accepted.

The bill was placed on the order of third reading of bills.

#### MESSAGES FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }  
*Lansing, Aug. 5, 1892.*

*To the President of the Senate:*

SIR—I am instructed by the House to transmit the accompanying message of His Excellency, the Governor, this day delivered to the two Houses in joint convention:

*Gentlemen of the Senate and House of Representatives:*

The Supreme Court of the State has declared unconstitutional and void the acts passed by this legislature and the legislature of 1885, for the apportionment of Senators and Representatives in the State legislature, and has directed that the coming elections be held in accordance with the apportionment acts of 1881, unless you shall enact new measures.

The acts of 1881, while they were not passed upon by the court, are

subject to the same constitutional objections which were raised against the acts of 1885 and 1891, and, considered in connection with our present population, are wholly inadequate to secure a proper representation of the different sections of the State. An election under the acts of 1881 would now involve far more inequality of representation than would be possible under the acts of 1891.

Moreover, since 1881 several new counties have been organized, and in the larger cities ward boundaries have been so changed that it is more than doubtful if elections could be held in some of the districts.

I have therefore deemed it my duty to convene the legislature in special session for the purpose of considering the situation, trusting that your wisdom and your familiarity with the subject will enable you to frame apportionment acts which will conform to the requirements of the constitution and be acceptable to the Supreme Court.

That you are again compelled to legislate upon this important matter seems due to your having followed the precedents set by former legislatures, and to your having accepted the theory that the legislature is an independent, coördinate branch of the State government, whose province it is to determine the political divisions of the State.

You have just cause for congratulation in the fact that while much of your most important legislation has been contested in the Supreme Court, only two of the six hundred acts passed at your first session have been held unconstitutional.

I have confidence that your wisdom, ability, and patriotism will enable you to do well the work for which you have now assembled.

EDWIN B. WINANS.

Very respectfully,

LYMAN A. BRANT,

*Clerk of the House of Representatives.*

The message was referred to the committee on apportionment.

HOUSE OF REPRESENTATIVES, }  
Lansing, Aug. 6, 1892. }

*To the President of the Senate:*

SIR—I am instructed by the House to transmit the following:

House Bill No. 4, entitled

A bill to apportion anew the representatives among the several counties and districts of this State,

Which passed the House by a majority vote of all the members elect, and in which the concurrence of the Senate is respectfully asked.

Very Respectfully,

LYMAN A. BRANT,

*Clerk of the House of Representatives.*

The bill was read a first and second time by its title, and referred to the committee on apportionment.

### THIRD READING OF BILLS.

Senate bill No. 1 (file No. 1), entitled

A bill for the apportionment of Senators in the State Legislature,

Was read a third time and passed, a majority of all the Senators elect voting therefor, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Fridlender	Mr. Mugford	Mr. Stevens
Beers	Garvelink	Park	Toan
Boughner	Gilbert	Porter	Weiss
Brown	McCormick	Prindle	Wheeler
Crocker	Miller	Sabin	Wilcox
Doran	Milnes	Sharp	Wilkinson
Fleishiem	Morrow	Smith	

27

## NAYS.

Mr. Holcomb	Mr. Taylor	Mr. Withington	3
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Title agreed to.

Mr. Benson moved that the Senate proceed to the election of a President *pro tem* of the Senate, to fill the vacancy caused by the resignation of Hon. Chauncey W. Wisner.

Mr. Milnes rose to a point of order, his point being the claim that a similar motion having been laid upon the table at to-day's session, the motion by Mr. Benson was not in order.

The chair declared the point of order as not well taken, as the former motion was that the Senate proceed at that time to the election of a President *pro tem*.

The question being on the motion to proceed to the election of a President *pro tem* of the Senate,

The same prevailed.

Mr. Benson then proposed the name of Mr. Aaron B. Brown as a nominee for the office of President *pro tem* of the Senate.

The Senate then proceeded to a vote for President *pro tem*, the result of which was as follows:

## FOR MR. BROWN.

Mr. Benson	Mr. Garvelink	Mr. Porter	Mr. Toan
Beers	Gilbert	Prindle	Weiss
Boughner	McCormick	Sharp	Wheeler
Crocker	Miller	Smith	Wilcox
Doran	Morrow	Stevens	Wilkinson
Fleishiem	Mugford	Taylor	Withington
Fridlender	Park		

26

## FOR MR. HOLCOMB.

Mr. Milnes	1
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## FOR MR. WHEELER.

Mr. Sabin	1
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The President announced that Aaron B. Brown, having received a majority of all the votes cast, was duly elected President *pro tem* of the Senate.

The President *pro tem*, having been called to the chair, and having made a few remarks relative to his acceptance of the office,

On motion of Mr. Withington,

The Senate took a recess for one hour.

## AFTER RECESS.

The Senate met at 3:45 o'clock P. M. and was called to order by the President.

A quorum present.

The President announced the appointment of Mr. Gilbert as a member of the select committee on apportionment, to fill the vacancy caused by the resignation of Mr. Wisner.

## REPORTS OF SELECT COMMITTEES.

By the select committee on apportionment:

The select committee on apportionment, to whom was referred

House bill No. 4, entitled

A bill to apportion anew the Representatives among the several counties and districts of this State,

Respectfully report that they have had the same under consideration, and have directed me to report the same back to the Senate, without amendment, and recommend that the bill do pass, and ask to be discharged from the further consideration of the subject.

MARTIN CROCKER, *Chairman.*

Report accepted and committee discharged.

On motion of Mr. Milnes,

The rules were suspended, two-thirds of all the Senators present voting therefor, and the bill was placed on its immediate passage.

The bill was then read a third time and passed, a majority of all the Senators elect voting therefor, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Garvelink	Mr. Park	Mr. Taylor
Beers	Gilbert	Porter	Toan
Boughner	Holcomb	Prindle	Weiss
Brown	McCormick	Sabin	Wheeler
Crocker	Miller	Sharp	Wilcox
Doran	Milnes	Smith	Wilkinson
Fleishiem	Morrow	Stevens	Withington
Fridlender	Mugford		
			30

## NAYS.

0

Title agreed to.

On motion of Mr. Taylor,

By a vote of two-thirds all the Senators elect, the bill was ordered to take immediate effect.

## MESSAGES FROM THE GOVERNOR.

The Chair announced a communication from the Governor on a matter of executive business.

On motion of Mr. Park,

The Senate went into

## EXECUTIVE SESSION,

The time being 4 o'clock P. M.

The Executive Session closed, the time being 4:10 o'clock P. M.

EXECUTIVE OFFICE, MICHIGAN. }  
 Lansing, August 6, 1892. }

*To the Senate and House of Representatives:*

I hereby submit for your consideration the question of the appointment of a committee to investigate and report at the next session of the legislature as to the best plan of legislation looking to the improvement of the highways of the State, and also as to the advisability of employing our convict labor in the construction of country roads.

EDWIN B. WINANS, Governor.

The message was received.

MESSAGES FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }  
 Lansing, August 6, 1892. }

*To the President of the Senate:*

SIR—I am instructed by the House to transmit the following concurrent resolution:

*Resolved, by the House of Representatives* (the Senate concurring), That the Governor be and is hereby authorized to appoint a commission to consist of three persons to investigate, consider and report to the next session of the Legislature of this State a plan of legislation looking to the improvement of the highways of this State, and also to report as to the practicability of using convict labor in connection with such improvement.

Such commission to serve without pay, except for expenses which shall be audited by the Board of State Auditors upon sworn statements to be approved by the Governor and not to exceed in the aggregate the sum of five hundred dollars, which sum is hereby appropriated therefor.

Which has been adopted by the House by a majority vote of all the members elect, and in which the concurrence of the Senate is respectfully asked.

Very respectfully,

LYMAN A. BRANT,

*Clerk of the House of Representatives.*

The question being on concurring in the adoption of the concurrent resolution,

The resolution was adopted, Mr. Doran calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

YEAS.

Mr. Benson	Mr. Fridlender	Mr. Morrow	Mr. Smith
Beers	Garvelink	Mugford	Stevens
Boughner	Gilbert	Park	Taylor
Brown	Holcomb	Porter	Weiss
Crocker	McCormick	Prindle	Wheeler
Doran	Miller	Sabin	Wilkinson
Fleishem	Milnes	Sharp	Withington

NAYS.

Mr. Toan

1

HOUSE OF REPRESENTATIVES, }  
 Lansing, August 6, 1892. }

*To the President of the Senate:*

SIR—I am instructed by the House to transmit the following concurrent resolution:

*Resolved by the House of Representatives* (the Senate concurring), That from and after August 6, 1892, the two houses of the Legislature will transact no business other than for the President of the Senate and the Speaker of the House of Representatives to sign enrolled bills for the approval of the Governor and the entry of the same on the journal by the Secretary of the Senate and Clerk of the House, and the time of final adjournment of the Legislature shall be August 8, 1892, at 12 o'clock noon of that day.

Which has been adopted by the House by a majority vote of all the members elect, and in which the concurrence of the Senate is respectfully asked.

Very respectfully,

LYMAN A. BRANT,

*Clerk of the House of Representatives.*

The question being on concurring in the adoption of the concurrent resolution,

The resolution was adopted, the Senators voting thereon, by yeas and nays, as follows:

YEAS.

Mr. Benson	Mr. Garvelink	Mr. Park	Mr. Taylor
Beers	Gilbert	Porter	Toan
Boughner	Holcomb	Prindle	Weiss
Brown	McCormick	Sabin	Wheeler
Crocker	Miller	Sharp	Wilcox
Doran	Milnes	Smith	Wilkinson
Fleishiem	Morrow	Stevens	Withington
Fridlender			29

NAYS.

0

By unanimous consent,

Mr. Brown offered the following concurrent resolution:

*Resolved by the Senate* (the House of Representatives concurring), That the Secretary of State be and is hereby authorized to have printed maps of the new Senatorial and Representative districts of proper size for insertion in the Legislative Manuals of 1891, a sufficient number of maps to be printed to allow each member of the Legislature 100 copies of the map.

The question being on the adoption of the concurrent resolution,

Mr. Gilbert moved to amend the resolution by striking out the figures "100" and inserting in lieu thereof the figures "50;"

Which motion to amend did not prevail.

The question being on the adoption of the concurrent resolution, the resolution was adopted, the Senators voting thereon, by yeas and nays, as follows:

YEAS.

Mr. Benson	Mr. Garvelink	Mr. Prindle	Mr. Weiss
Beers	Holcomb	Sabin	Wheeler
Brown	McCormick	Sharp	Wilcox
Crocker	Morrow	Stevens	Wilkinson
Fleishiem	Mugford	Taylor	Withington
Fridlender	Park	Toan	23

NAYS.

0

HOUSE OF REPRESENTATIVES, }  
*Lansing, August 6, 1892.* }

*To the President of the Senate:*

SIR—I am instructed by the House to return the following:

Senate bill No. 1 (file No, 1), entitled

A bill for the apportionment of Senators in the State Legislature,

In the passage of which bill the House has concurred by a majority vote of all the members elect, and which by a vote of two-thirds of all the members elect has been ordered to take immediate effect.

Very respectfully,

LYMAN A. BRANT,

*Clerk of the House of Representatives.*

On motion of Mr. Smith,

By a vote of two-thirds of all the Senators elect, the bill was ordered to take immediate effect.

The bill was then referred to the committee on engrossment and enrollment for enrollment.

#### MOTIONS AND RESOLUTIONS.

Mr. Stevens offered the following resolution:

*Resolved*, That each member of the Senate be allowed five dollars for stationery, during this session, according to the provision of article 4, section 15, of the constitution.

The question being on the adoption of the resolution,

Mr. Smith moved that the further consideration of the subject be indefinitely postponed;

Which motion prevailed, Mr. Doran calling for the yeas and nays, and the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Benson	Mr. Gilbert	Mr. Prindle	Mr. Toan
Beers	McCormick	Sabin	Weiss
Boughner	Miller	Sharp	Wheeler
Brown	Milnes	Smith	Wilcox
Crocker	Morrow	Stevens	Wilkinson
Doran	Mugford	Taylor	Withington
Fridlander	Porter		

26

#### NAYS.

Mr. Fleshier      Mr. Garvelink      Mr. Holcomb

3

Mr. Doran offered the following resolution:

*Resolved*, That a committee of three should be appointed by the president of this body, to request of the Governor, that he shall report to the Senate at as early a date as possible, the amount of the defalcations of Thomas M. Wilson, the late clerk of the Board of State Auditors, and that he shall also lay before the Senate all matters, papers and records in relation to the defalcation of said Thomas M. Wilson, relative to the negligent, careless and unbusinesslike manner in which he is alleged to have conducted his duties as clerk of said Board of Auditors, so that this body may determine the amount of said defalcations or if they cannot determine the amount of said defalcations, they may report upon the man-



ner of his work, the condition of his accounts with said State, so that the people may know exactly how the matter stands.

The question being on the adoption of the resolution,

The resolution was adopted.

Mr. Wheeler offered the following resolution:

*Resolved*, That the Secretary of the Senate procure from the clerk of the Supreme Court a certified copy of the opinions of the court on the reapportionment cases and have the same published in the Journal of today.

The question being on the adoption of the resolution,

The resolution was adopted, the Senators voting thereon, by yeas and nays, as follows:

#### YEAS.

Mr. Benson	Mr. Fridlender	Mr. Mugford	Mr. Weiss
Brown	Garvelink	Prindle	Wheeler
Crocker	Holcomb	Sabin	Wilkinson
Doran	Milnes	Stevens	Withington
Fleishem	Morrow	Taylor	19

#### NAYS.

Mr. Boughner	Mr. McCormick	Mr. Porter	Mr. Smith
Gilbert	Park		6

By unanimous consent,

The committee on engrossment and enrollment made the following report:

By the committee on engrossment and enrollment:

The committee on engrossment and enrollment to whom was referred Senate bill No. 1, entitled

A bill for the apportionment of Senators in the State Legislature,

Respectfully report the same correctly enrolled, signed and presented to the Governor, and ask to be discharged from the further consideration of the subject.

CHAS. B. BOUGHNER, *Chairman*.

Report accepted and committee discharged.

#### MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }  
Lansing, August 6, 1892. }

*To the President of the Senate:*

Sir—I am instructed by the House to return the following concurrent resolution:

*Resolved by the Senate* (the House of Representatives concurring), That the Secretary of State be and is hereby authorized to have printed maps of the new senatorial and representative districts of proper size for insertion in the legislative manuals of 1891, a sufficient number of maps to be printed to allow each member of the Legislature one hundred copies of the map,

Which has been concurred in by the House by a majority vote of all the members elect.

Very respectfully,  
LYMAN A. BRANT,  
*Clerk of the House of Representatives.*

The message was received.

On motion of Mr. Beers;

The Senate adjourned until Monday next at 11.55 A. M.

O P I N I O N  
ON THE  
REPRESENTATIVE APPORTIONMENT BILL.

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SUPREME COURT OF THE STATE OF MICHIGAN.

THE BOARD OF SUPERVISORS of Houghton County,

vs.

ROBERT R. BLACKER, Secretary of State.

Filed July 28, 1892.

LONG J.

The legislature by act No. 109, Public Acts of 1891, apportioned anew the representatives in the legislature among the several counties and districts of this State. The number of representatives was fixed by the first section of the act at 100, in accordance with Sec. 3, Art. IV of the constitution, agreeably to a ratio of one representative to every 20,938 persons, including civilized persons of Indian descent not members of any tribe, in each organized county, and one representative to each county having a fraction more than a moiety of said ratio, and not included therein until 100 representatives are assigned.

Under the United States census of 1890 it appears that Houghton county had a population of 35,389, or a ratio and a fraction more than a moiety. Under the above apportionment act, however, that county was divided and the townships of Adams, Chassell, Duncan, Franklin, Hancock, Laird, Portage, Quincy, Schoolcraft and Torch Lake made to constitute one representative district, while the townships of Calumet and Osceola of Houghton county and the whole of the counties of Keweenaw and Isle Royal were constituted one representative district; that is two townships of Houghton county were cut off and put into a district with Keweenaw and Isle Royal counties.

This is a petition for mandamus to compel the respondent, as Secretary of State, to give notice of the election of two representatives from the county of Houghton and disregard the division of the county as made by the legislature under the act. It is claimed that the constitution is violated by this act in two particulars: 1. In dividing the county by putting two of the townships into a representative district outside of it. 2. In refusing to give to the county two representatives, it having a ratio and a fraction over a moiety.

Section 3, act IV, of the constitution provides: "The House of Representatives shall consist of not less than 64, nor more than 100 members. Representatives shall be chosen for two years and by single districts.

Each representative district shall contain as nearly as may be an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized or are members of any tribe, and shall consist of convenient and contiguous territory; but no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized with such territory as may be attached thereto shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervisors shall assemble at such time and place as the legislature shall prescribe and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the office of the Secretary of State and clerk of such county, a description of such representative districts, specifying the number of each district and the population thereof according to the last preceding enumeration."

After the act of 1891 took effect the board of supervisors of Houghton county assembled, and acting under what is claimed to be the power of said board conferred by this provision of the constitution proceeded to divide the county into two representative districts, it having a ratio as fixed by the act and a moiety over, under the last preceding enumeration. A description of such representative districts was offered for filing in the office of the Secretary of State.

By resolution of the board of supervisors, the county was divided into two districts, of Calumet, Schoolcraft and Torch Lake, containing a population of 18,758, constituting District No. 1, and the townships of Adams, Chassel, Duncan, Franklin, Hancock, Laird, Osceola, Portage and Quincy, containing a population of 16,631, constituting District No. 2.

It is expressly provided by the section of the constitution above set forth that where a county is entitled to more than one representative the board of supervisors shall assemble and divide the county into representative districts. This power is therefore vested in the board of supervisors and not in the legislature; so that if the county of Houghton is entitled to more than one representative the act of the legislature, so far as it attempts to divide the county into districts, is void and of no effect.

At the time of the framing of the constitution the convention adopted a schedule, which was made a part of it and ratified by a vote of the people. The purpose of this schedule is stated in a preamble as follows: "That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared," etc. Section 22 of this schedule provides: "Every county except Mackinaw and Chippewa entitled to a representative in the legislature at the time of the adoption of this constitution, shall continue to be so entitled under this constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one representative; the county of Tuscola and the territory that may be attached, one representative; the county of Sanilac and the territory that may be attached, one representative; the counties of Midland and Arenac, with the territory that may be attached, one representative; the county of Montcalm, with the territory that may be attached, one representative; and the counties of Newaygo and Oceana, with the territory that may be attached

thereto, one representative. Each county having a ratio and a fraction over equal to a moiety of said ratio shall be entitled to two representatives, and so on above that number, giving one additional member for each additional ratio."

At the time of the adoption of the constitution of 1850 there were seven organized counties in the Upper Peninsula of the State, including Houghton county, and thirty-three organized counties in the Lower Peninsula. The county of Houghton, by the terms of section twenty-three of the schedule, was then entitled to one representative at least, and each organized county, except Mackinaw and Chippewa, was regarded as a unit for representative purposes and to be dealt with by the legislature only as a whole.

By the plain provisions of section 3, article IV of the constitution and of section 22 of the schedule, it is manifest that the legislature in apportioning the representatives should take into consideration the fact that certain counties had been organized prior to the adoption of the constitution, and such counties, except Mackinaw and Chippewa, would be entitled to one representative at least; and that where a county was thereafter organized with such territory as might be attached thereto, it should be entitled to a separate representative when it had attained a population equal to a moiety of the ratio of representation, and that each county was to be regarded as a unit, also that when any county then organized or thereafter organized should be entitled to more than one representative such county should be divided into districts by the board of supervisors, but that such county was also to be regarded as a unit. Again, if not alone entitled to one representative, it must as a whole be joined with other entire counties and other territory to send one representative. These limitations, by the constitution, are placed upon the power of the legislature in apportioning representatives to the various counties of the State.

No other legislature since the adoption of the present constitution in 1850 has ever given any other interpretation to the constitution. It has never been thought that the legislature had the power, under the constitution, to divide a county in making representative districts until the present act was passed by the legislature of 1891. By no one of the eight apportionment bills passed since 1850 has this been attempted, but on the contrary in every bill so passed the county has been regarded as a unit. This has not arisen from matter of accident in the apportionment, but by the various acts there is a distinct recognition of the fact that the legislature has no power under the constitution to divide a county. The first apportionment act after the adoption of the constitution recognized that limitation of power. (Act No. 104, L. 1855.) That act provided that: 'The house of representatives shall hereafter be composed of members elected agreeably to a ratio of one representative for every 7,000 white persons in each organized county.' And the acts of 1861, 1865, 1871, 1876 use the same language. The act of 1881 further says: 'And one representative to each county having the largest fraction more than a moiety of said ratio.'

It is apparent, therefore, that the legislature had no power to divide the county of Houghton and set off a portion of its territory into another district.

Under our constitution and form of government the county has become to be regarded as of much importance in the administration of the affairs of the state and in the matter of local self-government. The boards of

supervisors may have conferred upon them under section 38, article IV of the constitution, powers of a local, legislative and administrative character. Such powers have been conferred from time to time, so that the county with its county seat established and its own officers to manage its affairs, represent the interests of the State in that part of the territory designated as a county. Many of these counties existed at the time of the adoption of the present constitution, and the formation of others was provided for as local interests might demand. The interests of the people of a county center around its seat of government, and the people of a county, in the past, have always been represented in the lower house of the legislature by one of its own constituency. As was said by Justice Orton in *State v. Cunningham*, 51 N. W. R., 730, "The people have a commendable pride in their own counties, and have more or less a common feeling and interest, and participate together in all their county affairs. They have a right to be represented by their own members of the legislature, and the members themselves can better represent them and promote and protect their interest."

It is contended, however, by the Attorney General, who appears for the respondent in this case, that though the legislature may have made a mistake in dividing Houghton County, yet if the act is otherwise valid, it should not be declared unconstitutional. It will be seen that if the provisions of section 22 of the schedule to the constitution had been followed in making the apportionment, Houghton county, having a ratio of representation and a fraction over equal to a moiety would be entitled to two representatives; so that while the act is invalid, inasmuch as it attempts to divide the county and set off a portion into another district, it also deprives the county of Houghton of that representation to which, under this section, it would be entitled. This court has no power, however, to make an apportionment and could in no case hold that two representatives should be elected from that county. Under section 3, article 4 of the constitution, the whole number of representatives cannot exceed 100. The legislature by the act fixed the utmost limit of representation, and if it should now be held by this court that Houghton county should have no representatives, it would make the total number 101, or one more representative than the constitution recognizes. This would be the effect of such a holding, or it would deprive Keweenaw and Isle Royale counties of all representation. We have no power to do this, or to declare what county or counties shall lose a representative in order to make the number good to Houghton county.

Some argument is made that the legislature was bound under the provisions of section 3, article 4, declaring that "each representative district shall consist . . . of convenient and contiguous territory," to unite Keweenaw and Isle Royale counties to the county of Houghton, for the reason that within the meaning of the constitution they were not convenient and contiguous territory to any other county.

This clause in the constitution does not bear the restricted meaning contended for. It does not mean in contact by land. Certainly, so far as the islands are concerned, they may be considered contiguous although separated by wide reaches of navigable deep waters. Isle Royale and other islands would go unrepresented if this were not so; and they may be as well declared convenient and contiguous territory to Baraga, Ontonagon, Marquette, or other counties bordering on the deep waters of the lake, as to Houghton county. We think this is the meaning of those words as used in the constitution.

Keweenaw county was set off from Houghton county in 1861. The apportionment act of 1865 gave her one representative, she then having a moiety of a ratio; that of 1871 made Ontonagon and Keweenaw together a district, the latter county having then less than a moiety of a ratio. The act of 1875 joined her with Isle Royale, Baraga and Ontonagon; that of 1881 with the same counties; that of 1885 the same, during all of which time Houghton county was entitled to one representative only. It was not thought in those times that Keweenaw was not convenient and contiguous to those counties. It would seem, therefore, that there was no difficulty in placing Keweenaw and Isle Royale counties in a district with convenient and contiguous territory without dividing a county to make a district.

The legislature had no constitutional power to divide the county of Houghton, and we believe no necessity existed in apportioning the members of the legislature to each county to do so. Many other glaring unconstitutional provisions of the act could be pointed out; provisions applying to other counties, where many are deprived of the number of members to which under the ratio they are entitled, and other counties given more members than such county would be entitled to under the ratio.

It is of course well known that an equal and exact division of the members among the different counties cannot be made; and all that the constitution contemplates is that the division shall be as equal as may be; but where one county is given more representatives than it is entitled to, to the detriment of other counties, without any necessity or just cause, the county deprived of a member may well complain, and for such reason the act may be held void. But we need not in the present controversy enter upon a discussion of that subject, as it is apparent that Houghton county could not constitutionally be divided and one portion of its territory put into another district.

The prayer of the petition, however, cannot be granted as fully as the claim is made. As we have said, we have no power to make an apportionment, and the board of supervisors of that county would have no right to apportion two representatives to that county, as in that case the number would exceed the constitutional limit. But for the reasons above given, we must hold the whole act unconstitutional and void. In view of the facts set up in the petition and admitted by the answer the writ must be granted, directing the Secretary of State to give notice of election of the members of the legislature throughout the state in accordance with the preceding apportionment, under act No. 255 of the public acts of 1881; for the reasons set out in the opinion of my brother Morse unless in the meantime the legislature shall be assembled and apportion the members anew."

The other justices concurred.

MORSE, C. J.

The main question involved in this controversy is the right of the legislature to dismember a county in the formation of representative districts.

It is argued that there is no express prohibition in the constitution against the division of a county as was done in the apportionment of 1891, and attaching a portion of it to other counties, to form a representative district.

But such prohibition is plainly implied when the provisions in relation to representatives in the legislature are taken as a whole, and considered together, as they must be, in construing their meaning.

It is very evident that it was not intended by the constitution that counties should be divided unless entitled to two or more members; and then it is expressly provided that the division shall be made by the board of supervisors, at such time and place as the legislature shall direct.

The constitution provides not only that each county thereafter organized shall be entitled to a separate representative, when it has attained a population equal to a moiety of the ratio of representation, but the schedule, which from its reading must be held to be in operation for all time, unless it shall be stricken out or amended, also provides that, "Each county having a ratio of representation and a fraction over equal to a moiety of said ratio shall be entitled to two representatives, and so on above that number, giving one additional member for each additional ratio."

These provisions negative the idea of dividing counties, and joining parts of two or more counties, or a part of one county to another entire county, in order to get an equality of population in the districts.

Here, as in the senatorial apportionment, the county is the chief factor. The provision that each district "shall contain as near as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory" does not conflict with this main idea of representation by counties. The words "as near as may be" are capable of sufficient expansion to meet all difficulties that lie in the way. The number of inhabitants in each district is to be as equal as may be under a compliance with the other provisions of the Constitution, which compel a representation by counties.

The constitution does not look to a division of counties to obtain equality of population in the districts. For instance, if two counties adjoining contain, one of them a ratio and a fraction over, equal to a moiety of such ratio, and the other a population equal to a moiety of the ratio, the constitution does not contemplate that the county having the excess over the ratio shall be divided, and enough of its territory added to the lesser county to make it equal a ratio, so that two districts shall be composed of the two counties in this way; but expressly provides that the larger county in population shall have two members and the smaller one one, making three districts out of two ratios.

If it had been intended that a county should be divided and a part of its territory added to some other county, or a portion of some other county, in order to equalize more perfectly the population of the districts, these two provisions, one giving an additional representative for a moiety, and the other one for a moiety when the population of the county did not reach the ratio, would not have been inserted in the constitution. In fact, a county cannot be dismembered and carry out these two clauses of the constitution.

In this case Houghton county, under one of these provisions, was entitled to two representatives, and when a portion of it was detached and added to Keweenaw and Isle Royale counties, and the balance of the county given but one representative, the clear provisions of the constitution were violated and ignored.

It is plain to me that the framers of the constitution intended that the county, as well as the township, should be treated as a unit in the formation of representative districts, except when a county was entitled to more than one representative. In such case the legislature cannot divide. It must be done by the local legislature, the board of supervisors.



It is contended by the Attorney General that the provision of the constitution that no city shall be divided in the formation of such districts, suggests that it was contemplated that a county might be divided, because a city might be, as some villages now are in this State, situated in two counties; and that, if it be held that a county cannot be dismembered under the constitution, then the clause of that instrument which prohibits a division of a city might be nullified.

But a city, especially one not in existence at the time of the adoption of the constitution, is the creature of the law and has no constitutional right of being. There was no city, at the time the present constitution was adopted, situated in this way, and there has been none since. Nor can a city be created, embracing territory in more than one county, unless such city shall be made a county by itself, in view of the provisions relative to the apportionment of representatives, without violating the plain intent of the constitution. If, at the adoption of the constitution there had been a city thus situated, the contention of the Attorney General would have much force, but, as it is, it has none.

It is also claimed that the constitution in relation to the apportionment of representatives cannot always be carried out in detail without violating some of its provisions. This is no doubt true, but it affords no argument in favor of the division of counties, except in the cases provided by the constitution.

If one county can be dismembered, all of them can; and we might have, under the exercise of the legislative discretion, a representation ignoring counties altogether, and based solely upon the idea of equality of population.

The schedule to the constitution expressly provides that, "Every county except Mackinaw and Chippewa entitled to a representative in the Legislature" at the time of its adoption, shall continue to be so entitled.

When it is attempted to carry out this provision, and to give each county organized since the constitution was adopted, one representative for a moiety of the ratio, and also every county a member for each ratio, and an additional member for a moiety of a ratio, and then limit the number of representatives to one hundred, or any number, which shall be the quotient of the division of the whole of the population of the State by the ratio, it will be found that it cannot always be done without denying to some county its constitutional right of representation.

For instance, the ratio of representation, at 100 members, under the census of 1890 is 20,938. Under the census and ratio, if the constitution be followed in all of its provisions, the counties entitled to one or more representatives under the moiety system use up 97 out of the 100 members and there are still left 29 counties in the northern part of the State, with a population in round numbers of 137,000 out of which to carve three districts, each with a population of over 45,000; more than double the ratio; so that two men would not have the representation in these districts that one would have in the others.

As far as I have examined there has never been an apportionment but this difficulty has been encountered; and it has been a subject of much perplexity and vexation in the legislature. It has resulted always in the necessary denial to some county or counties of their full representation under the moiety system.

This court could not be called upon to enforce a constitutional provision incapable of enforcement. In case of making as equitable a division as

possible under the constitution, and that is all that can be required, it must be in the discretion of the legislature to deprive some of the counties of their representation, or additional representation, upon the moiety plan; for two ratios cannot always be given three representatives and at the same time limit the number of the whole to one for each ratio.

But in such discretion the counties having the least number of inhabitants above the ratio or the moiety of the ratio should be the ones to suffer this deprivation. For instance, in the present apportionment, Houghton county, with a population of 35,389, was entitled under the moiety plan to two representatives as were also Sanilac, Tuscola, Menominee, Macomb and Montcalm. These counties in population under the census of 1890 were as follows:

Menominee .....	33,639
Montcalm .....	32,637
Sanilac .....	32,589
Tuscola .....	32,508
Macomb .....	31,813

Of these six counties, if three were to be left out, Houghton, Menominee and Montcalm were entitled to two members each, and Sanilac, Tuscola and Macomb to one each. But the legislature gives two each to the last three, and only one to each of the first three above named, thus reversing the constitutional order of preference.

Under the constitution all of them are entitled to two, if the various provisions of the constitution can be so worked out as to give each of them two. If they cannot then the one or more left out should be those having the least population.

There can be no legislative discretion under the constitution to give a county of less population than another a greater representation. Such action would be arbitrary and capricious, and against the vital principle of equality in our government; and is not intended or permitted by the constitution; nor could such action lead to any good result. There can be found no excuse for it.

The relator prays that the Secretary of State deliver a notice to the Sheriff of Houghton county that two representatives are to be chosen in said county at the next election, and for such other and further relief as to the court seem proper in the premises.

The special prayer cannot be granted. The board of supervisors have no power to divide Houghton county into two districts, unless so authorized by the legislature. Their action in this respect is null and void.

But the people of the county are entitled to vote together for a representative. No portion of them can be detached and joined to another county. The apportionment act of 1891 is void, because it undertook to dismember Houghton county and because the constitution was also violated in giving counties two representatives having a less population than counties who were accorded but one.

The law of 1885 is also unconstitutional for the reason that the counties, or some of them, were given representation in defiance of the constitution and without the discretion of which I have spoken. Bay county, with a population of 51,221, was given but two representatives, while Lenawee county with a less population, to wit, 49,584, was given three.

This was not the exercise of constitutional discretion but an arbitrary

determination for some reason other than a desire to conform to the constitution.

Under the moiety clauses, Bay, Lenawee, and St. Clair were entitled in 1885 in the order named to three representatives. If only one could be given this number the constitution required it should be Bay; if two, Bay and Lenawee.

An examination of the apportionment act of 1881, shows it to have been within the constitutional discretion of the legislature, and therefore, the Secretary of State must give his notices under that law, unless a new and valid apportionment shall be made by the legislature.

The other justices concurred.

STATE OF MICHIGAN,--ss.

IN THE SUPREME COURT, CLERK'S OFFICE.

I, Charles C. Hopkins, clerk of the Supreme Court of the State of Michigan, do hereby certify that the annexed is a true and correct copy of the opinion of the Court now on file in said Court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original.

*In Testimony Whereof*, I have hereunto set my hand and affixed the seal of said Supreme Court, at Lansing, this fifth day of

[L. S.] August, A. D. 1892.

CHAS. C. HOPKINS, *Clerk.*

# OPINION

ON THE

## SENATORIAL APPORTIONMENT BILL.

SUPREME COURT OF MICHIGAN.

THERON F. GIDDINGS,

VS.

ROBERT R. BLACKER, Secretary of State.

Filed July 28, 1892.

GRANT, J.

The constitution of Michigan contains the following provisions found in article 4.

SECTION 1. The legislative power is vested in a senate and house of representatives.

SEC. 2. The senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

SEC. 4. The legislature shall provide by law for an enumeration of the inhabitants in the year 1854 and every ten years thereafter, and at the first session after each enumeration so made and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts, according to the number of white inhabitants and civilized persons of Indian descent not members of any tribe.

Acting under these constitutional provisions the legislature passed the senatorial apportionment act No. 175, public acts of 1891. By the census of 1890 the population was 2,093,889. The ratio of each district would therefore be 65,434. Eight of the districts under this act contain populations as follows: Seventh, 91,420; tenth, 82,697; fourteenth, 88,678; eighteenth, 86,129; twentieth, 84,694; twenty-fifth, 82,556; twenty-seventh, 97,330; thirty-first, 82,213. These are the eight largest districts. Eight other districts contain populations as follows: Twelfth, 41,245; eleventh, 42,110; sixteenth, 46,626; twenty-second, 42,546; twenty-third, 39,727; twenty-eighth, 43,701; twenty-ninth, 40,033; thirtieth, 53,068.

Under this apportionment eight senators would represent constituencies numbering in all 695,717, while eight other senators would represent

constituencies numbering in all only 349,056. The county of Saginaw is given two senators, although it contains a population of only 82,273. The twenty-seventh district is composed of nine counties with a population of 97,330, while the twenty-ninth with eight counties, five of which adjoin a like number of counties of the twenty-seventh, contains a population of only 40,033.

The relator is a citizen and an elector in the seventh district, composed of the counties of Kalamazoo, St. Joseph and Branch, with a population of 91,420, and prays for the writ of mandamus to restrain the respondent, the Secretary of State, from giving notice of the election of senators, under the act of 1891, and to compel him to give notice under the apportionment act of 1885. The petition also contains a prayer for general relief. The basis upon which relief is sought is that the power delegated by the above provisions of the constitution to rearrange the senatorial districts is limited, that this limitation was wholly disregarded by the act in question and the act is therefore unconstitutional and void.

It appears conceded by the learned Attorney General that the legislature is not in the exercise of a political and discretionary power when acting under these constitutional provisions, for which it is only amenable to the people, and that this court has jurisdiction in a case properly before it, to determine the constitutionality of the act in question. The constitution of this State provides, "The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, quo warranto, procedendo, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only." The general jurisdiction of this court to determine the constitutionality of legislative enactments is not limited so as to exclude laws involving political rights.

The constitution of Wisconsin, in conferring jurisdiction upon its Supreme Court, is nearly identical in language with the constitution of this State. The Supreme Court of Wisconsin has recently most ably and thoroughly discussed and determined the jurisdiction of the court in a case similar in principle and its facts to the present one. (*State vs. Cunningham*, 51 N. W. R. 724.) The authorities in support of the jurisdiction are there collated, and citations made from them. Were the power conferred upon the legislature one of absolute discretion, then the express mandate "shall rearrange according to the number of inhabitants" would be void of any force or meaning, except that it might be regarded as expressive of the opinion of the framers of the constitution that such method would be equitable and fair. We have no doubt of the jurisdiction of the court.

But it is insisted by the Attorney General that, inasmuch as the relator is a private citizen, having no interest in the matter above every other citizen, he has no standing in court, because, prior to filing his petition, he made no application to the prosecuting attorney of his county, the Attorney General, or other public officer, to apply to this court for a mandamus touching the matter here at issue. In support of this claim he cites *People vs. Regents*, 4 Mich. 98; *People vs. Inspectors of State Prison*, 4 Mich. 187; *People vs. Green*, 29 Mich. 121; *Police Justice vs. Supervisors*, 38 Mich. 423. In *People vs. Regents* the application was to compel the regents to appoint a professor of homeopathy in the medical department of the University. The court expressed its conviction that that was a case in which the action of the Attorney General would have been proper

and necessary, at the same time saying, "We do not intend to say that a case may not arise in which this court would allow an individual to file such a complaint, particularly if the Attorney General were absent, or refused to act without good cause."

In *People vs. Inspectors*, a private citizen applied for the writ of mandamus to restrain the respondents from teaching to convicts in the State prison the mechanical trade of wagonmaking. The main question was disposed of upon its merits, the court expressing some doubt whether the relator had such clear legal right and special interest as to entitle him to make the application. In *People vs. Green*, the application was to compel the county clerk and register of deeds to keep his offices at a certain place to which he claimed the county seat had been lawfully removed. His convenience in having access to the office was the ground of his petition. It was held that he had shown no special interest as to authorize him to proceed without application to the proper officer. In *Police Justice vs. Supervisors*, the application was to compel the allowance of claims alleged to be owing from the county to the city. The city authorities were of course the proper party to institute the proceedings. In *Ayres vs. State Auditors*, 42 Mich., 422, this precise objection was made and the court said: "In the present case the officer whose duty it usually is to enforce the rights of the State in this court has, in the performance of his official functions as advisor of the State officers, placed himself in an adverse position and appears for the respondents on this application."

The present case comes directly within that decision. The law does not require unnecessary things to be done. When the Attorney General appears for a respondent it certainly follows that he is adverse to the position of the relator and that an application on the part of the relator to him to commence the proceedings would be met with a non-compliance. This court, as appears from the authorities above cited, has taken care to prevent officious intermeddling by the use of this discretionary writ, and at the same time has swept away technicalities where public interests are involved and prompt action is necessary. We have quite uniformly overruled this objection in cases of the latter class.

The unconstitutionality of the act is clear. The county of Saginaw, with only 16,839 inhabitants in excess of the ratio, is divided into two senatorial districts, one having 24,189 less than the ratio, and the other having 23,334 less than the ratio. There is no basis, constitutional or otherwise for such an apportionment. It is contemplated by the constitution that the ratio shall govern as far as it is practical. This is apparent from the provision that "each county hereafter organized with such territory as may be attached thereto shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation." The constitution of the United States provides that the number of representatives shall not exceed one for every 30,000 but each state shall have at least one representative. Under the first census, which showed the total number of free persons with three-fifths of the slaves to be 3,606,397, congress fixed the number of representatives at 120, being one for every 30,000. In the apportionment, Massachusetts was entitled to fifteen representatives with an excess of 25,327, for which she was given an additional representative. Other states with a similar large excess were treated likewise, while those states which had a small excess received no additional representation therefor. President Washington, by the advice of Jefferson, Randolph and Madison, vetoed the bill as uncon-

stitutional, giving the following reasons: "*First*, The constitution has prescribed that representatives shall be apportioned among the several states according to their respective numbers; and there is no one proportion or divisor which, applied to the respective members of the states, will yield the number and allotment of representatives proposed by the bill. *Second*, The constitution has also provided that the number of representatives shall not exceed one for every 30,000, which restriction is by the context and by a fair and obvious construction to be applied to the separate and respective numbers of the state and the bill has allotted to eight of the states more than one for every 30,000.

A county having an excess of only about one-fourth of the ratio is not, in the language of the constitution, "equitably entitled to two or more senators," while the district composed of eight counties and containing nearly two and a half times the population of each district into which the former county is divided receives but one senator. Equity has no definition applicable to such a case. It was never contemplated that one elector should possess two or three times more influence, in the person of a representative or senator, than another elector in another district. Each, in so far as it is practicable, is, under the constitution, possessed of equal power and influence. Equality in such matters lies at the basis of our free government. It is guaranteed, not only by the constitution but by the ordinance of 1787, organizing the territory out of which the State of Michigan was carved. (*State vs. Cunningham*, supra.)

Aside from considerations of equity and justice, it is apparent that the framers of the constitution understood that a county to be entitled to two senators must have a ratio and a moiety of a ratio, of population. (Constitutional debates of 1850, 119, 123, 161, 368, 374, 386, 113.)

The state cannot be divided into senatorial districts with mathematical exactness, nor does the constitution require it. It requires the exercise on the part of the legislature of an honest and fair discretion in apportioning the districts so as to preserve, as near as may be, the equality of representation. This constitutional discretion was not exercised in the apportionment act of 1891. The facts themselves demonstrate this beyond any controversy, and no language can make the demonstration plainer. There is no difficulty in making an apportionment which shall satisfy the demand of the constitution.

It is not the purpose or province of this court to inquire into the motives of the legislature. Courts will not discuss the motives of legislative bodies except as they appear in the public acts or journals of such bodies. The validity of an act does not depend upon the motive for its passage. The duty of a court begins with the inquiry into the constitutionality of the law and ends with a determination of that question.

The petition prays that the respondent be directed to give notice of the election under the apportionment act of 1885. The constitutionality of this act is therefore directly involved in the controversy, unless it be held to be removed from the question by the fact that the people have acquiesced in its validity by acting under it for three elections. It must be conceded that this act is affected with the same constitutional infirmity as the act of 1891. It is unnecessary to determine whether such infirmity exists to an equal or a greater or less degree. It is sufficient to say that it is not in accord with the constitution and for the same reasons which apply to the act of 1891. It is therefore insisted with great force by the Attorney General that no election should be ordered under the former act,

and he also urges in consequence that no relief can be granted. It is also said by him that so far as he has examined other apportionment acts they are all subject to the same objection. Under his reasoning it would follow that if the act of 1891 is held to be void there is no remedy except the executive of the state decides to call a special session of the legislature. In such case there would be no apportionment law under which the people might elect a legislature.

While the constitution requires the legislature to rearrange the districts at the next session after each enumeration, yet we are of the opinion that each apportionment act remains in force until it is supplanted by a subsequent valid act. It was my opinion that the respondent should be directed to give notice under the act of 1885, inasmuch as the people have acquiesced in its validity by so long acting under it. But I yield my opinion to that of my brethren, who are of the opinion that the notice should be given under the law of 1881, the validity of which is not here brought in controversy, unless the executive should call a special session or the legislature.

Our conclusions therefore are: 1. That the petition is properly brought into this court by the relator. 2. The court has jurisdiction in the matter. 3. The apportionment acts of 1891 and 1885 are unconstitutional and void. 4. The writ of mandamus must issue restraining the respondent from issuing the notice of election under the act of 1891, and directing him to issue the notice under the apportionment act of 1881, unless the executive of the State shall call a special session of the legislature to make a new apportionment before the time expires for giving such notice. No costs will be allowed.

Long and Montgomery J. J. concurred with Grant J.

MORSE, C. J.

It is evidently contemplated by the constitution that the county shall be the essential factor in the formation of senatorial districts. "No county shall be divided in the formation of senatorial districts, unless such county shall be equitably entitled to two or more senators" is the prevailing idea of the organic provision. It is further contemplated that such districts shall be arranged according to the "number of white inhabitants and civilized persons of Indian descent not members of any tribe."

This equality of representation, however, is secondary to and hampered by the fact that no county can be divided, and a part of it attached to another county, or the part of another county, in order to make the districts equal or nearly so in population. This express inhibition against the division of a county gives necessarily great latitude to the legislative discretion; and the senatorial districts must of necessity not be as equally divided as to population as might be done if county lines could be disregarded. The legislature undoubtedly could take a partisan advantage by making choice of different counties, and joining them together in one senatorial district, when such counties were contiguous; so that one legislature of one political complexion might put, for instance, Macomb and St. Clair in one district, while another of a different political complexion might join Macomb with Lapeer, and St. Clair with some other adjoining county, and not violate any constitutional rights of the electors of such districts.

But as shown by Mr. Justice Grant the legislature in the senatorial apportionment of 1891 went far beyond any legitimate discretion and violated the rules of equity when it was not necessary, or even proper, to do



so, because of the fact that a county could not be divided. The 27th and 29th districts lie contiguous to each other so that there was no excuse for putting 97,330 in one and only 40,033 in the other.

The senatorial apportionment of 1891 and 1885 which are before us so that we are compelled to examine them, were neither of them arranged in view of the constitution or the rights of the electors of this State. While it is true that the motive of an act need not be inquired into to test its constitutionality, I believe that the time for plain speaking has arrived in relation to the outrageous practice of gerrymandering which has become so common, and has so long been indulged in, without rebuke, that it threatens not only the peace of the people but the permanency of our free institutions.

The courts alone in this respect can save the rights of the people, and give to them a fair count and equality in representation. It has been demonstrated that the people themselves cannot right this wrong. They may change the political majority in the legislature as they have often done, but the new majority proceeds at once to make an apportionment in the interest of its party as unequal and politically vicious as the one that it repeals.

There is not an intelligent school boy but knows what is the motive of these legislative apportionments, and it is idle for the courts to excuse the action upon other grounds, or to keep silent as to the real reason, which is nothing more nor less than partisan advantage taken in defiance of the constitution, and in utter disregard of the rights of the citizen.

Take our own State for example. In the election of 1884, the republican candidate for Secretary of State had a plurality of 4,383 out of a total vote of 401,003. The republican majority in the legislature of 1885 arranged the senatorial districts so that upon the vote of 1884, 21 were republican and 11 were democratic. In eight districts a population of 316,578 were given the same representation in the Senate as are 532,222 people in eight other districts. The Upper Peninsula, with Emmet and Mackinac counties added, is given three senators, when it is only entitled to two, the population of the three districts—30th, 31st, 32d—combined, being 124,580, and the ratio, 61,125.

In 1890 the democratic candidate for Secretary of State received a plurality of 2,704 over the republican candidate in a total vote of 398,611, and the democratic majority in the legislature of 1891 apportioned the senatorial districts so that, on the basis of the vote of 1890, 21 were democratic and 11 republican. As shown by Mr. Justice Grant, these districts were so divided that in eight of them a population of 349,056 has the same representation as 695,717 in eight other districts, and in order to aid this inequality the county of Saginaw is divided into two districts, when it was only entitled to one under the constitution. It will thus be seen that upon a plurality of less than 5,000 in a total vote of about 400,000 each of these political parties has so gerrymandered these senatorial districts that each has 21 senatorial districts to 11 of the other. If permitted to continue in this kind of business the next legislature to apportion senators, if its political complexion should be different from the last, following in the footsteps of its predecessors, will easily change the figures about again and give its party 21 senators and the other the 11.

It is time to stop it. And the citizen has the right to appeal to the court in defense of his most sacred rights under the constitution. He cannot be obliged to wait for prosecuting attorneys or the Attorney General. It is

as well a public as a private grievance, and the individual elector can invoke the aid of the court in his own behalf and call attention also to the existence of a great public wrong.

There is no higher privilege granted to the citizen of a free country than the right of equal suffrage and thereby to an equal representation in the making and administration of the laws of the land. Under our State constitution the right of the elector is fixed. To him equal representation is a right, as well as a privilege, of which the legislature cannot deprive him. These wrongs have been committed for partisan purposes. Their object and effect have been to deprive the majority of the people of their will in the administration of the government.

The greatest danger to our free institutions lies today in this direction. By this system of gerrymandering, if permitted, a political party may control for years the government, against the wishes, protests and votes of a majority of the people of the state, each legislature chosen by such means perpetuating its political power by like legislation from one apportionment to another.

We have been obliged under the issue here made to investigate but two apportionments, those of 1891 and 1885. Both are tarred with the same stick. We do not care to go further, since there is a remedy in the hands of the executive and legislature. The consequences of this decision are not for us. It is our duty to declare the law, to point out the invasion of the constitution, and to forbid it. I agree with the result as announced in the opinion of Mr. Justice Grant.

MC GRATH, J.

I desire to express my hearty concurrence in the views expressed by my brethren. The purpose of the constitutional enactment is to secure as nearly as possible equality of representation. Any apportionment which defeats that purpose is vicious, contrary not only to the letter but to the spirit of our institutions and subversive of popular government.

Power secured or perpetuated by unconstitutional methods is power usurped and usurpation of power is a menace to free institutions. The greatest danger to the republic is not from ignorance but from machinations to defeat the expression of the popular will.

The population of the State according to the last enumeration made by the authority of the United States is 2,089,889. The ratio for each senator is 65,434.

The following is a sketch of the division of the lower peninsula into senatorial districts by the act of 1891.

[Here follows map of Lower Peninsula showing Senatorial Districts.]

The population of each county is given with the total population of each district. The county of Wayne has a population 257,114 and is divided into four districts. Emmet county is attached in the apportionment to the Upper Peninsula. It will be seen that eight of the districts so formed are populated as follows: 97,330, 91,420, 88,678, 86,189, 84,694, 82,697, 82,556, 32,213, making a total population of 695,717. Thus but 1,912 less than one-third of the population of the state have but one-fourth of the total number of senators. Eight other districts have a population of 349,056, and with but a little over sixteen and one-half per cent of the population they have twenty-five per cent of the representation in the senate.

Four of the first named have a total population of 363,557, while four of

the last named have but 163,115. Any one of the first five named have more than double the population of any one of four of the last named.

The first four have a population of 363,557, or 14,501 more than the last named eight, yet the 349,056 persons have eight representatives in the senate while 363,557 have but four.

Why should the twenty-two contiguous counties forming the 27th, 28th and 29th districts be so divided that five, having a population of but 43,701 are given one senator, and eight having a population of but 40,33, are given another, while nine having a population of 97,320, or 13,586 more than both of the other districts, is given but one? Why should the 28th or 29th districts having respectively a population of 40,033 and 43,701 be each allotted one senator, and St. Clair with a population of 52,105 be united with Sanilac so as to make a population of 84,694, or more than both of said districts; or Jackson with 45,031 be united with Ingham making a population of 82,697; or Kalamazoo and St Joseph with an aggregate population of 64,629 be united with Branch so as to make a population of 91,420; or Ionia and Eaton with 64,895 be added to Barry, making a total of 88,678; or Berrien with 41,285 be united with Cass; or Bay with 56,412 be united with Gladwin and Arenac or Muskegon with its 40,013 be united with Ottawa? Why should Saginaw be divided so as to give two senators to 82,273 persons and nine counties be joined as in the 27th district to restrict 97,320 persons to one representative in the senate or three be joined as in the 7th to restrict 91,420 persons to one, or six be united as in the 31st to restrict 82,213 to a single senator or three be joined as in the 18th to restrict 86,129 to one senator, or three as in the 14th to restrict 88,678, or four as in the 25th to confine 82,556 persons to a single senator, or why should Bay with 56,412 or St Clair with 52,105 be joined with another county?

Any two of the counties in the 7th or 14th or 25th have a population in excess of either of the Saginaw districts yet in each case those counties are joined.

But the law of 1885 is equally vicious.

[Here follows map of Lower Peninsula showing Senatorial Districts of 1885.]

The population of the State was 1,853,658, and the ratio 57,926. Under that apportionment 41 per cent of the population elected 16 senators or half the whole number. Eight districts had a population of 601,488, distributed as follows: 84,000, 78,076, 76,918, 75,047, 74,795, 78,799, 69,246, 69,007. Eight others had 305,922, as follows: 31,617, 32,324, 35,375, 38,454, 38,688, 41,100, 48,783, 49,584. Sixteen districts had a population of 1,094,685 and the other sixteen had 758,978. Thirty-three contiguous counties in the Upper Peninsula and the northern part of the Lower Peninsula with a total population of 275,758 which would entitle them to four senators were given seven. Twenty-seven of these counties with a population of 176,458, entitling them to three senators were accorded five, while Wayne county with a population of 189,000 was given but three. St. Clair had a population of 46,783, Calhoun of 41,585, Jackson of 45,232, and Washtenaw of 41,694, or a total of 175,294, yet they were joined with four other counties with a population of 123,993, making a total of 299,287, and the eight counties given four senators. The eight counties averaging 34,410 each, were accorded four senators, while the five districts averaging 35,291 were each given one senator.

The twenty-two counties in the 26th, 27th, 28th and 28th districts with a

population of 151,178 were given four senators, or one to each 37,794 inhabitants, each lacking over 20,000 of the ratio; and if Lake and Mason had been added, they would have been entitled to but three, while St. Clair, Washtenaw, Jackson and Bay, with 184,930 inhabitants, were practically given but two. Alpena, Oscoda, Alcona, Ogemaw and Iosco, with less than 56 per cent of the ratio, were given one senator; while Bay with nearly 89 per cent, Jackson with 77 per cent, St. Clair with over 80 per cent and Washtenaw with nearly 72 per cent of the ratio, were each joined with another county and denied the right of sole representation. The 18 counties in the 26th, 27th and 29th districts had 102,395 inhabitants or one ratio, and 76 per cent of a second and were accorded three representatives in the senate, while St. Clair, Macomb, Jackson, Hillsdale, Monroe and Washtenaw, with 230,041 inhabitants, were accorded but three.

Such laws brood disrespect, for all law, for law makers become law breakers.

STATE OF MICHIGAN—ss.

IN THE SUPREME COURT, CLERK'S OFFICE.

I, Charles C. Hopkins, clerk of the Supreme Court of the State of Michigan, do hereby certify that the annexed is a true and correct copy of the opinion of the court now on file in said court in said cause; that I have compared the same with the original, and that it is a true manuscript therefrom, and the whole of said original.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Supreme Court, at Lansing, this fifth day of August,  
[L. S.] A. D. 1892.

CHAS. C. HOPKINS, *Clerk.*

*Lansing, Monday, Aug. 8, 1892.*

The Senate met and was called to order by the President at 11:55 o'clock A. M.

Roll called: not a quorum present,  
Present: Mr. Taylor.

MESSAGE FROM THE GOVERNOR.

EXECUTIVE OFFICE,  
*Lansing, Mich., Aug. 8, 1892.* }

*To the Senate:*

I have this day signed, approved, and deposited in the office of the Secretary of State

Senate bill No. 1 (file No. 1), entitled

An act for the apportionment of Senators in the State Legislature.

EDWIN B. WINANS, *Governor.*

The message was received.

The hour of 12 o'clock (noon) having arrived, the President announced that in accordance with the provisions of the Constitution and the concurrent resolution heretofore adopted, the Senate would stand adjourned without day.



# EXECUTIVE SESSION.

## IN EXECUTIVE SESSION.

SENATE CHAMBER,  
*Lansing, August 6, 1892.* }

On motion of Mr. Park,  
The Senate went into executive session, the time being 4 o'clock P. M.  
A quorum present.  
The President announced the following communication from the Governor:

EXECUTIVE OFFICE,  
*Lansing, August 5, 1892.* }

### *To the Senate:*

I hereby nominate the following persons as members of the State Board of Inspectors for the terms indicated, beginning October 2, 1891:

Orlando M. Barnes of Lansing .....	8 years.
Francis F. Palms of Detroit.....	6 years.
Edward Duffy of Ann Arbor.....	4 years.
Milo D. Campbell of Coldwater .....	2 years.

I also nominate Gilbert E. Corbin of St. Johns as a member of the State Board of Examiners in Dentistry for the term of three years from and after July 29, 1891.

I also nominate Charles A. Bugbee of Cheboygan as a member of the Michigan Board of Pharmacy for the term of five years from and after January 1, 1892.

I also nominate Nathaniel H. Stewart of Kalamazoo as a member of the Board of Trustees of the Michigan Asylum for the Insane to fill vacancy caused by the death of Robert Burns whose term would have expired the second Tuesday in February, 1893.

EDWIN B. WINANS, *Governor.*

On motion of Mr. Gilbert,  
By unanimous consent,  
The rules were suspended and the Senate dispensed with a reference of the foregoing nominations to the committee on executive business.

Mr. Park moved that the foregoing nominations by the Governor be advised and consented to by the Senate;

Which motion prevailed, a majority of all the Senators elect voting therefor, by yeas and nays, as follows:

## YEAS.

Mr. Benson	Mr. Garvelink	Mr. Mngford	Mr. Stevens	
Beers	Gilbert	Park	Taylor	
Boughner	Holcomb	Porter	Weiss	
Brown	McCormick	Prindle	Wheeler	
Crocker	Miller	Sabin	Wilcox	
Doran	Milnes	Sharp	Wilkinson	
Fleishem	Morrow	Smith	Withington	29
Fridlender				0

## NAYS.

On motion of Mr. Gilbert,

The executive session closed, the time being 4:10 o'clock P. M.

SENATE CHAMBER, }  
*Lansing, August 8, 1892.* }

I hereby certify that the foregoing is a correct Journal of the proceedings of the Senate, and of the Senate in Executive Session, of the Legislature of the State of Michigan, for the special session convened August 5, 1892.

ALFRED J. MURPHY,

*Secretary of the Senate.*

# INDEX.

This index is composed of the following parts:

- I.—Index to all bills and joint resolutions considered in the Senate.
- II.—History of Senate bills.
- III.—History of House bills in the Senate.
- IV.—General index to Journal.

## I.—INDEX TO BILLS AND JOINT RESOLUTIONS CONSIDERED IN SENATE.

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JOURNAL  
OF THE  
HOUSE OF REPRESENTATIVES  
OF THE  
STATE OF MICHIGAN

SPECIAL SESSION, 1892

Printed by virtue of an Act of the Legislature, under the direction  
and supervision of

LYMAN A. BRANT

Clerk of the House of Representatives

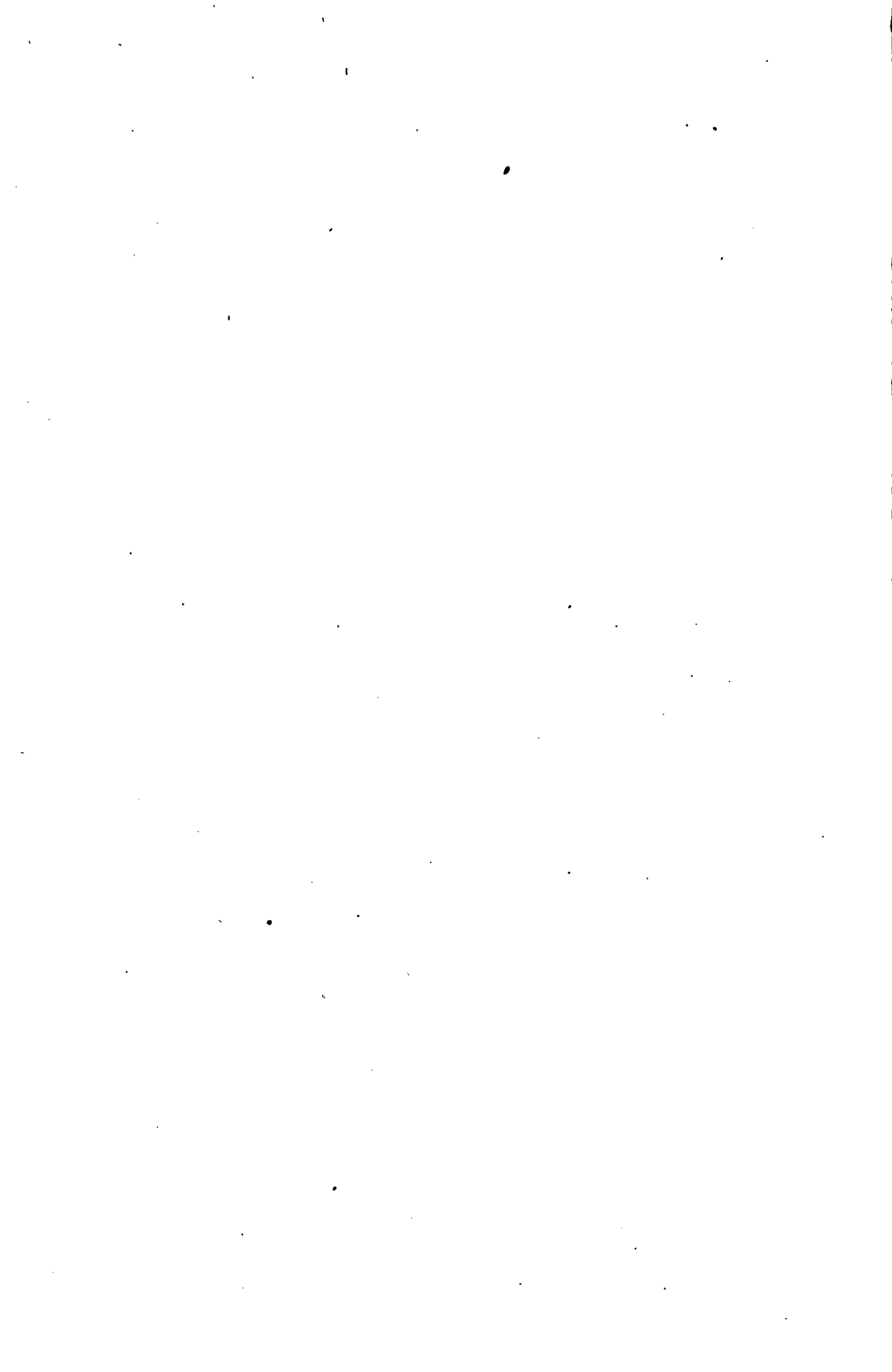


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LANSING:  
ROBERT SMITH & CO., STATE PRINTERS AND BINDERS.  
1892.



# HOUSE JOURNAL.

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## SPECIAL SESSION.

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*Lansing, Friday, August 5, 1892.*

Pursuant to a proclamation of His Excellency, Hon. Edwin B. Winans, Governor of the State of Michigan, the members of the House of Representatives assembled this day in their hall in the Capitol, in the city of Lansing.

The Speaker, Hon. Philip B. Wachtel, called the House to order at 12 o'clock, noon.

Prayer by Rev. W. H. Osborne.

The Speaker directed the Clerk to read the proclamation of the Governor convening the legislature in extraordinary session, which was as follows:

### PROCLAMATION BY THE GOVERNOR.

WHEREAS, It appears from a decision of the Supreme Court of the State, rendered July 28, 1892, that the apportionment acts passed by the legislatures of 1885 and 1891 are unconstitutional and void, for reasons stated in the opinion; and

WHEREAS, It appears that the apportionment acts of 1881 are subject to the same constitutional objections, besides being now inequitable by reason of the increase of population, and impracticable by reason of changes in county, city and ward boundaries; and

WHEREAS, Relief can only be afforded the people of the State by convening the legislature in special session for the purpose of framing new measures of apportionment, which duty is directed by the constitution to be performed after each enumeration of the inhabitants; now

*Therefore*, I, Edwin B. Winans, Governor of the State of Michigan, by virtue of the authority vested in me by the constitution, do hereby convene the legislature of the State in special session, requiring the Senators and Representatives to assemble in their respective chambers at the capitol in the city of Lansing, on Friday, the fifth day of August, A. D. 1892, at 12 o'clock, noon, for the purpose of rearranging the Senate districts, and apportioning anew the Representatives among the counties and districts, and for the transaction of such other business as may be laid before them.

In testimony whereof, I have hereunto set my hand, and caused to be affixed the great seal of the State, at the capitol, this first day of August, in the year of our Lord one thousand eight hundred and ninety-two.

[SEAL.]

EDWIN B. WINANS, *Governor.*

By the Governor:

ROBERT R. BLACKER, *Secretary of State.*

STATE OF MICHIGAN, }  
Office of the Secretary of State. } ss.

I, Louis E. Rowley, Deputy Secretary of State of the State of Michigan, do hereby certify that I have compared the annexed copy of the proclamation by the Governor of the State of Michigan convening the legislature of said State with the original filed in this office and that it is a true and correct transcript therefrom, and of the whole of such original.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Michigan, at Lansing, this 5th day of August, in the year of our Lord one thousand eight hundred and ninety-two.

LOUIS E. ROWLEY,  
Deputy Secretary of State.

The Speaker announced the following communications, which were read by the clerk:

*Baraga, Mich., August 3, 1892.*

*To the Hon. Speaker and House of Representatives of the State of Michigan:*

GENTLEMEN—You are hereby notified that on or about the 28th day of August, 1891, I removed from Saginaw county, and have taken up my residence in the county of Baraga, the office of Representative for the 1st district of Saginaw county being, thereby vacated.

Respectfully,

EDWARD L. STONE.

*To Hon. P. B. Wachtel Speaker of the House of Representatives:*

SIR—I beg to inform you that the seat held by me as member of the House from the Ogemaw district, comprising the counties of Ogemaw, Roscommon, Crawford and Oscoda, by reason of my removal from the district is now vacant.

*August 5, 1892.*

Yours etc.,

DEVERE HALL.

The communications were laid on the table.

The roll was then called by the clerk and the following members answered to their names:

Mr. Alexander	Mr. Downing	Mr. Jackson, S P	Mr. Perkins
Baldwin	Eaton, C L	Jackson, W B	Raymond
Barkworth	Eaton, R C	Johnson, H	Richardson
Barnard	Ferguson, A F	Johnson, L S	Rockwell
Bathey	Ferguson, M	Knight	Rowden
Blake	Fildew	Lambert	Ryland
Botsford	Fitch, C C	Landon	Seeley
Bowen	Fitch, Norton	Lester	Shull
Buell	Gibbons	Lewis	Smith, A A
Bullock	Graham	Lowden	Smith, F H
Canfield	Gregory	Lusk	Smith, W O
Carpenter	Harley	Marsh	Spencer
Chisholm	Harper	Marion	St. Clair
Church	Harry	McCloy	Swift
Clapp	Harwood	McGovern	Tinklepaugh
Collins	Hayward	Mellen	Tripp

Mr. Connor	Mr. Henze	Mr. Miller	Mr. Wagner
Curtiss	Herz	Miner	Watts
Dafoe	Holden	Nolan	White
Diekema	Holton	Northup	Wiggins
Dodge	Houghton	Osborn	Speaker.
Doremus			

The following members were absent:

Messrs. Baker, Denning, Leach, Munthe and Robinson.

During the call of the roll by the clerk, when the name of Representative Doyle was reached, that gentleman arose in his seat and announced that since the last session he had removed his residence from the district of Chippewa.

The Speaker announced that a quorum of the House was present.

Mr. Connor moved that a committee of three be appointed to wait upon the Senate and inform that body that a quorum of the House was present and ready to proceed to business;

Which motion prevailed.

The Speaker appointed as such committee Messrs. Connor, Eaton and Tripp.

The committee appointed to wait upon the Senate and inform that body that a quorum of the House was present and ready to proceed to business, returned and reported that they had performed the duty assigned to them.

Report accepted and committee discharged

On motion of Mr. White,

The House took a recess until 2 o'clock, P. M.

---

#### AFTERNOON SESSION.

*2 o'clock P. M.*

The House met and was called to order by the Speaker.

Quorum present.

The Sergeant-at-Arms announced a committee from the Senate, who informed the House that a quorum of the Senate was present and ready to proceed to business.

Mr. Miner moved that a committee of three on the part of the House be appointed to act with a like committee on the part of the Senate to wait on his excellency, the Governor, and notify him that the two houses are now in session, and ready to receive any communication that he may desire to make, and to request him to indicate a time when he will communicate with the two houses in joint convention,

Which motion prevailed.

The Speaker appointed as such committee Messrs. Miner, Diekema and Barkworth.

The committee appointed to act with a like committee on the part of the Senate to wait upon the Governor, returned and reported that they had performed the duty assigned them and that his excellency, the Governor, had informed them that he would be pleased to meet the two houses in joint convention at any time the two houses should elect.

Report accepted and committee discharged.

Mr. Rockwell moved that a committee of three be appointed to wait on



the Senate and inform that body that the House will be pleased to meet them in joint convention at 4 o'clock P. M. to receive the message of the Governor;

Which motion prevailed.

The Speaker appointed as such committee Messrs. Rockwell, St. Clair and Mr. L. S. Johnson.

After a short absence the committee returned and reported that they had performed the duty assigned to them.

Report accepted and committee discharged.

The Sergeant-at-Arms announced the honorable Senators, who were conducted to seats.

#### PROCEEDINGS IN JOINT CONVENTION.

The joint convention was called to order by Hon. John Strong, Lieutenant Governor and President of the Senate.

The roll of the Senate was called by the Secretary thereof, and a quorum of the Senators was announced to be present.

The roll of the House was called by the Clerk thereof, and a quorum of the Representatives was announced to be present.

The President of the Senate announced that the two houses had met in joint convention to receive any communication that the Governor might be pleased to make.

Mr. Doremus moved that a committee of two from the Senate and two from the House be appointed to wait upon the Governor and inform him that the two houses were met in joint convention, and were ready to receive whatever communications he might be pleased to make,

Which motion prevailed.

The President appointed as such committee Messrs. Gilbert, Withington, Doremus and Barnard.

After a short absence the committee returned and reported that they had performed the duty assigned to them and that his excellency, the Governor, was in attendance.

Report accepted and committee discharged.

His excellency, Governor Edwin B. Winans, then read to the joint convention his message, which was as follows:

*Gentlemen of the Senate and House of Representatives: -*

The Supreme Court of the State has declared unconstitutional and void the acts passed by this legislature and the legislature of 1885, for the apportionment of Senators and Representatives in the State legislature, and has directed that the coming elections be held in accordance with the apportionment acts of 1881, unless you shall enact new measures.

The acts of 1881, while they were not passed upon by the court, are subject to the same constitutional objections which were raised against the acts of 1885 and 1891, and, considered in connection with our present population, are wholly inadequate to secure a proper representation of the different sections of the State. An election under the acts of 1881 would now involve far more inequality of representation than would be possible under the acts of 1891.

Moreover, since 1881 several new counties have been organized, and in the larger cities ward boundaries have been so changed that it is more than doubtful if elections could be held in some of the districts.

I have therefore deemed it my duty to convene the legislature in special

session for the purpose of considering the situation, trusting that your wisdom and your familiarity with the subject will enable you to frame apportionment acts which will conform to the requirements of the constitution and be acceptable to the Supreme Court.

That you are again compelled to legislate upon this important matter seems due to your having followed the precedents set by former legislatures, and to your having accepted the theory that the legislature is an independent, coördinate branch of the State government, whose province it is to determine the political divisions of the State.

You have just cause for congratulation in the fact that while much of your most important legislation has been contested in the Supreme Court, only two of the six hundred acts passed at your first session have been held unconstitutional.

I have confidence that your wisdom, ability, and patriotism will enable you to do well the work for which you have now assembled.

EDWIN B. WINANS.

Whereupon,  
His excellency, the Governor, then retired.  
After which,  
On motion of Mr. Barkworth,  
The joint convention adjourned.

ALFRED J. MURPHY,  
*Secretary of the Senate,*  
LYMAN A. BRANT,  
*Clerk of the House of Representatives,*  
*and Secretaries of the Joint Convention.*

The Honorable Senators having retired,  
The House was called to order by the Speaker.  
A quorum of the House was present.

The Speaker announced that the Senate and House had met in joint convention, and had listened to a message from His Excellency, Governor Edwin B. Winans.

Mr. Diekema moved that on account of the seat of Mr. Doyle, late member from Chippewa, being vacant by the removal of Mr. Doyle from the district, the Clerk be instructed to drop his name from the roll;

Which motion prevailed.

Mr. Rockwell moved that the special committee appointed at the last session on apportionment be revived and continued for the discharge of that duty and that the Speaker be empowered to fill any vacancies that might exist therein,

Which motion prevailed.

The Speaker appointed Mr. White to fill the vacancy in the committee caused by the termination of office of Mr. Doyle.

Mr. Tripp moved that the message of the Governor be referred to the special committee on apportionment;

Which motion prevailed.

#### NOTICES.

Mr. Rockwell gave notice that at some future day he would ask leave to introduce

A bill to apportion anew the Representatives among the several counties and districts of this State.

Also gave notice that on some future day he would ask leave to introduce A bill to divide this State into thirty-two senatorial districts.

Mr. Diekema gave notice that on some future day he would ask leave to introduce

A bill to apportion anew the Representatives among the several counties and districts of the State.

Mr. W. B. Jackson gave notice that on some future day he would ask leave to introduce a bill, entitled

A bill to apportion anew the Representatives among the several counties and districts of this State.

#### MOTIONS AND RESOLUTIONS.

Mr. White offered the following:

*Resolved*, That the committee on ways and means be instructed to ascertain and adjust the mileage of the members and employés for the present session and report the same to the House;

Which was adopted.

On motion of Mr. Barkworth,

The House adjourned until tomorrow at 9 o'clock A. M.

---

*Lansing, Saturday, August 6, 1892.*

The House met pursuant to adjournment and was called to order by the Speaker.

Roll called: quorum present.

Absent without leave: Messrs. Baker, Dafoe, Denning, Dodge, M. Ferguson, Henze, Kolvoord, Marion, Orth, Robinson.

#### INTRODUCTION OF BILLS.

Mr. W. B. Jackson, previous notice having been given, and leave being granted, introduced

House bill No. 1, entitled

A bill to apportion anew the Representatives among the several counties and districts of this State.

The bill was read a first and second time by its title and referred to the committee on apportionment.

Mr. Rockwell, previous notice having been given, and leave being granted, introduced

House bill No. 3, entitled

A bill to apportion anew the Representatives among the several counties and districts of this State.

This bill was read a first and second time by its title and referred to the committee on apportionment.

Mr. Diekema, previous notice having been given, and leave being granted, introduced

House bill No. 2, entitled

A bill to apportion anew the representatives among the several counties and districts of this State.

The bill was read a first and second time by its title and referred to the committee on apportionment.

Mr. White, unanimous consent being given, introduced House bill No. 4, entitled

A bill to apportion anew the representatives among the several counties and districts of this State.

The bill was read a first and second time by its title and referred to the committee on apportionment.

#### MOTIONS AND RESOLUTIONS

Mr. Chisholm offered the following:

*Resolved*, That the committee on apportionment be and is hereby instructed to prepare and report to this house without delay a Representative apportionment bill on the basis of 64 members if they shall find it would be fair and equal and in harmony with the decision of the Supreme Court.

The question being on the adoption of the resolution,

Mr. Diekema moved to amend the resolution by substituting the following:

*Resolved*, That the committee on apportionment be instructed to consider the advisability of reporting a Representative apportionment bill upon the basis of 64 members.

The question being on the motion to amend the resolution.

On which question Mr. Richardson demanded the yeas and nays.

The demand was seconded and the motion to amend did not prevail by yeas and nays, as follows:

#### YEAS.

Mr. Alexander	Mr. Eaton, C. L.	Mr. Lusk	Mr. Smith, W. O.
Barnard	Eaton, R. C.	Northup	Spencer
Botsford	Fitch, Norton	Perkins	St. Clair
Buell	Harry	Raymond	Swift
Church	Harwood	Ryland	Tinklepaugh
Clapp	Holden	Shull	Wagner
Collins	Jackson, W. B.	Smith, A. A.	Watts
Dafoe	Lambert	Smith, F. H.	Wiggins
Diekema			

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#### NAYS.

Mr. Baldwin	Mr. Downing	Mr. Jackson, S. P.	Mr. Miller
Barkworth	Ferguson, A. F.	Johnson, H.	Miner
Bathey	Ferguson, M.	Johnson, L. S.	Munthe
Blake	Fildew	Knight	Nolan
Bowen	Fitch, C. C.	Leach	Osborn
Bullock	Gibbons	Lester	Richardson
Canfield	Graham	Lowden	Rockwell
Carpenter	Gregory	Marsh	Rowden
Chisholm	Harley	Marion	Seeley
Connor	Harper	McCloy	Tripp
Curtiss	Hayward	McGovern	White
Dodge	Holton	Mellen	Speaker
Doremus	Houghton		

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The question then being on the adoption of the resolution,  
On which question Mr. Chisholm demanded the yeas and nays.

The demand was seconded, and

Pending the call of the roll,

Mr. L. S. Johnson offered the following substitute therefor:

*Resolved by the House of Representatives*, That the committee on apportionment be directed to report to this House a bill to apportion the Representatives in this State on any ratio that will be equal and just on a basis not less than 64 or more than 100 members.

The question being on agreeing to the substitute,

The substitute was agreed to.

The question being on the adoption of the resolution as amended by the substitute,

The resolution was adopted.

Mr. Shull offered the following:

*Resolved*, That the Speaker appoint a committee of three, of which committee Representative Miner shall be chairman, to draft appropriate resolutions concerning the death of Representative James Kirk, of the 1st district of Tuscola county.

The resolution was adopted.

The Speaker appointed as such committee Messrs. Miner, Shull and Lambert.

Mr. W. B. Jackson moved that the House take a recess until 12 o'clock noon;

Which motion prevailed.

---

#### AFTER RECESS.

*12 o'clock M.*

The House met and was called to order by the Speaker.

Quorum present.

#### REPORTS OF SPECIAL COMMITTEES.

By the committee on apportionment:

The committee on apportionment, to whom was referred

House bill No. 4, entitled

A bill to apportion anew the Representatives among the several counties of this State,

Respectfully report that they have had the same under consideration and have directed me to report the same back to the House, without amendment, and recommend that the same do pass, and ask to be discharged from the further consideration of the subject.

W. B. JACKSON,  
*Chairman.*

Report accepted and committee discharged.

The bill was referred to the committee of the whole and placed on the general order.

By the committee on apportionment:

The committee on apportionment, to whom was referred the resolution of the House relative to apportionment of Representatives, begs leave to report herewith a bill upon the basis of a membership of sixty-four mem-

bers, which bill the committee has had under consideration and has directed me to report the same to the House without recommendation, and ask to be discharged from the further consideration of the subject.

W. B. JACKSON, *Chairman.*

Report accepted and committee discharged.

On motion of Mr. Connor,

The bill was referred to the committee of the whole and placed on the general order.

On motion of Mr. A. F. Ferguson,

The house took a recess until 1:30 o'clock P. M.

#### AFTERNOON SESSION.

1:30 o'clock P. M.

The House met and was called to order by the Speaker.

Quorum present.

#### REPORTS OF STANDING COMMITTEES.

By the committee on ways and means:

The committee on ways and means, to whom was referred the matter of mileage to members and employes of the House, have had the same under consideration, and have directed me to make the following report of mileage due the members and employes of the House:

	Miles.		Miles.
Mr. Alexander .....	378	Mr. Fildew .....	174
Baldwin .....	114	Fitch, C. C., .....	26
Barkworth .....	76	Fitch, Norton, .....	180
Barnard .....	136	Gibbons .....	262
Bathey .....	264	Graham .....	156
Blake .....	194	Gregory .....	138
Botsford .....	48	Harley .....	392
Bowen .....	130	Harper .....	110
Buell .....	156	Harry .....	1036
Bullock .....	160	Harwood .....	172
Canfield .....	240	Hayward .....	130
Carpenter .....	140	Henze .....	174
Chisholm .....	164	Herz .....	174
Church .....	149	Holden .....	416
Clapp .....	100	Holton .....	220
Collins .....	200	Houghton .....	80
Connor .....	134	Jackson, S. P. ....	248
Curtiss .....	178	Jackson, W. B. ....	174
Dafoe .....	446	Johnson, H. ....	86
Diekema .....	200	Johnson, L. S. ....	260
Dodge .....	188	Knight .....	164
Doremus .....	44	Lambert .....	313
Downing .....	320	Landon .....	414
Eaton, C. L., .....	254	Leach .....	216
Eaton, R. C., .....	238	Lester .....	150
Ferguson, A. F., .....	12	Lewis .....	315
Ferguson, M., .....	106	Lowden .....	180

	Miles.		Miles.
Mr. Lusk .....	222	Mr. Ryland .....	302
Marsh .....	172	Seeley .....	120
Marion .....	174	Shull .....	140
McCloy .....	204	Smith, A. A. ....	148
McGovern .....	322	Smith, F. H. ....	188
Mellen .....	212	Smith, W. O. ....	222
Miller .....	40	Spencer .....	300
Miner .....	174	St. Clair .....	874
Munthe .....	1403	Swift .....	66
Nolan .....	174	Tinklepaugh .....	360
Northrup .....	1158	Tripp .....	148
Osborn .....	172	Wachtel .....	468
Perkins .....	1062	Wagner .....	834
Raymond .....	188	Watts .....	78
Richardson .....	160	White .....	130
Rockwell .....	324	Wiggins .....	256
Rowden .....	192		

## EMPLOYÉS

	Miles.
Lyman A. Brant, clerk .....	174
H. A. Miller, journal clerk .....	178
W. A. Johnson, corresponding clerk .....	no mileage
W. H. McKinstry, financial clerk .....	238
E. M. Hopkins, engrossing and enrolling clerk .....	874
H. Engleman, postmaster .....	200
F. A. Clise, assistant postmaster .....	no mileage
W. P. Preston, sergeant-at-arms .....	550
H. A. Weiss, 1st assistant sergeant-at-arms .....	176
Richard Henderson, House messenger .....	24
W. T. Menge, House messenger .....	174
Arthur B. Snow, House messenger .....	128
George Johnson, House messenger .....	292
T. Craft Smith, journal clerk's messenger .....	130
Carl Yapple, Speaker's messenger .....	154
Dudley S. Preston, House messenger .....	550
Geo. Owen, assistant keeper of cloak room .....	174
Mrs. Mina Hanley .....	no mileage
Fayette Johnson, House messenger .....	86
Wm. Salter, assistant in cloak room .....	343

By order of the committee

JAS. L. LOWDEN, *Chairman.*

The report was accepted and committee discharged.

On motion of Mr. Lowden,

The report was adopted.

## GENERAL ORDER.

On motion of Mr. A. F. Ferguson,

The House went into a committee of the whole on the general order,

Whereupon the Speaker called Mr. A. F. Ferguson to the chair.

After some time spent therein the committee arose and through their chairman made the following report:

The committee of the whole have had under consideration the following:

1. House bill No. 4, entitled

A bill to apportion anew the Representatives among the several counties and districts of the State,

Have made no amendments thereto and direct their chairman to report the same back to the House and recommend its passage, and ask to be discharged from the further consideration of the subject.

The committee of the whole have also had under consideration the following:

2. House bill No. 5, entitled

A bill to apportion anew the Representatives among the several counties and districts of this State.

Have stricken out all after the enacting clause thereof, and have directed their chairman to report that fact to the House asking concurrence therein.

A. F. FERGUSON, *Chairman*.

Report accepted and committee discharged.

The first named bill was placed on the order of third reading.

On motion of Mr. Ferguson,

The House concurred in the action of the committee in striking out all after the enacting clause of the second named bill.

The title and enacting clause were laid on the table.

#### THIRD READING OF BILLS.

On motion of Mr. A. F. Ferguson,

The rules were suspended, two-thirds of all the members voting therefor, and

House bill No. 4, entitled

A bill to apportion anew the Representatives among the several counties and districts of the State,

Was put on its immediate passage.

The bill was then read a third time, and

Pending the taking of the vote on the passage thereof,

Mr. Doremus moved there be a call of the House

Which motion prevailed

#### PROCEEDINGS UNDER THE CALL.

The roll of the House was then called by the clerk and the following member reported absent without leave:

Mr. Henze.

The bill was then passed, a majority of all the members elect voting therefor, by yeas and nays, as follows:

#### YEAS.

Mr. Alexander	Mr. Downing	Mr. Jackson, W. B.	Mr. Perkins
Baldwin	Eaton, C L	Johnson, L. S.	Raymond
Barkworth	Eaton, R C	Knight	Richardson
Barnard	Ferguson, A F	Landon	Rockwell
Bathey	Ferguson, M	Leach	Rowden
Blake	Fildew	Lester	Ryland
Botsford	Fitch, C C	Lewis	Seeley
Bowen	Fitch, Norton	Lowden	Shull
Buell	Gibbons	Lusk	Smith, A. A.
Canfield	Graham	Marsh	Smith, F. H.



Mr. Carpenter	Mr. Gregory	Mr. Marion	Mr. Smith, W. O.
Chisholm	Harley	McCloy	Spencer
Church	Harper	McGovern	Swift
Clapp	Harry	Mellen	Tinklepaugh
Collins	Harwood	Miller	Tripp
Curtiss	Hayward	Miner	Wagner
Dafoe	Herz	Munthe	Watts
Diekema	Holden	Nolan	White
Dodge	Houghton	Northup	Wiggins
Doremus	Jackson, S P	Osborn	Speaker 80

## NAYS.

Mr. Connor	Mr. Holton	Mr. Johnson, H.	Mr. St. Clair	4
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Title agreed to.

On motion of Mr. Barkworth,

All further proceedings under the call were dispensed with.

By unanimous consent,

By the special committee, to whom was referred the death of Representative Kirk:

WHEREAS, This House, since its adjournment on July 3, 1891, has sustained an irreparable loss by the death of Representative Kirk, of Tuscola county; therefore be it

*Resolved*, That in the death of James Kirk, the House of Representatives and the State of Michigan has sustained the loss of a faithful, industrious and incorruptible public servant and citizen, and the 1st district of Tuscola county a representative who conscientiously performed his official duties ably and fearlessly.

*Resolved*, That we convey to the family of the deceased member our heartfelt sympathy, and that an engrossed copy of these resolutions, officially signed by the Speaker and Clerk of this House, be transmitted to his family.

JOHN MINER,  
JOHN D. SHULL,  
GEO. A. LAMBERT.

The resolution was unanimously adopted by a rising vote.

By unanimous consent,

Mr. Connor offered the following:

*Resolved by the House of Representatives* (the Senate concurring), That from and after August 6, 1892, the two houses of the Legislature will transact no business other than for the President of the Senate and the Speaker of the House to sign enrolled bills for the approval of the Governor and the entry of the same on the Journal by the Secretary of the Senate and Clerk of the House, and the time of final adjournment of the Legislature shall be August 8, 1892, at 12 o'clock noon of that day.

The resolution was laid on the table.

On motion of Mr. Barkworth,

The House took a recess until 3 o'clock P. M.

## AFTER RECESS.

3 o'clock P. M.

The house was called to order by the Speaker.  
Quorum present.

## MESSAGES FROM THE SENATE.

The Speaker announced the following:

SENATE CHAMBER,  
*Lansing, August 6, 1892.* }

*To the Speaker of the House of Representatives:*

SIR—I am instructed to transmit to the House the following bill:

Senate bill No. 1 (file No. 1), entitled

A bill for the apportionment of Senators in the State Legislature,

Which has passed the Senate by a majority vote of all the Senators elect, and in all of which the concurrence of the House is respectfully asked.

Very respectfully,

ALFRED J. MURPHY,

*Secretary of the Senate.*

The bill was read a first and second time by its title and referred to the committee on apportionment.

On motion of Mr. W. B. Jackson,

The committee on apportionment was discharged from the further consideration of the bill and the same was referred to the committee of the whole and placed on the general order.

## GENERAL ORDER.

On motion of Mr. Rockwell,

The House went into committee of the whole on the general order,

Whereupon the Speaker called Mr. Rockwell to the chair.

After some time spent therein, the committee rose and through their chairman made the following report:

The committee of the whole have had under consideration the following:

Senate bill No. 1 (file No. 1), entitled

A bill for the apportionment of Senators in the State Legislature,

Have made no amendments thereto and have directed me to report the same back to the House and recommend its passage.

H. C. ROCKWELL, *Chairman.*

The bill was placed on the order of third reading.

On motion of Mr. Rockwell,

The rule was suspended, two-thirds of all the members elected voting therefore, and

The bill was placed upon its immediate passage.

The bill was then read a third time and,

Pending the taking of the vote on the passage thereof,

Mr. St. Clair moved to amend the bill as follows:

That the 30th district consist of the counties of Chippewa, Mackinac, Luce, Alger and Marquette.

The 31st district consist of the counties of Schoolcraft, Delta, Menominee, Dickinson and Iron.

The 32d district consist of the counties of Baraga, Houghton Keweenaw, Isle Royal, Ontonagon and Gogebic.

The motion to amend did not prevail, two thirds of the members voting thereon not voting therefor.

The question recurring to the passage of the bill,

The bill was then passed a majority of all the members elect voting therefor, by yeas and nays, as follows:

## YEAS.

Mr. Alexander	Mr. Doremus	Mr. Jackson, S. P.	Mr. Northup
Baldwin	Downing	Jackson, W. B.	Osborn
Barkworth	Eaton, C. L.	Johnson, H.	Perkins
Barnard	Eaton, R. C.	Johnson, L. S.	Richardson
Bathey	Ferguson, M.	Landon	Rockwell
Blake	Fildew	Lester	Rowden
Botsford	Fitch, Norton	Lewis	Ryland
Bowen	Gibbons	Lowden	Seeley
Canfield	Graham	Lusk	Smith, W. O.
Carpenter	Gregory	Marsh	Spencer
Chisholm	Harley	Marion	Swift
Church	Harper	McCloy	Tinklepaugh
Clapp	Harry	McGovern	Tripp
Collins	Harwood	Mellen	Wagner
Curtiss	Holden	Miller	Watts
Diekema	Holton	Munthe	Wiggins
Dodge	Houghton	Nolan	Speaker 68

## NAYS.

Mr. Buell	Mr. Hayward	Mr. Shull	Mr. Smith, F. H.
Bullock	Leach	Smith, A. A.	St. Clair
Dafoe	Raymond		10

Title agreed to.

## MESSAGES FROM THE GOVERNOR.

The Speaker announced the following:

EXECUTIVE OFFICE,  
Lansing, Mich., Aug. 6, 1892. }

*To the Senate and House of Representatives:*

I hereby submit for your consideration the question of the appointment of a commission to investigate and report at the next session of the legislature as to the best plan of legislation looking to the improvement of the highways of the State, and also as to the advisability of employing our convict labor in the construction of country roads.

EDWIN B. WINANS, Governor.

The message was laid on the table.

By unanimous consent,

Mr. Hayward offered the following:

*Resolved by the House of Representatives* (the Senate concurring therein), that the Governor be and is hereby authorized to appoint a commission, to consist of three persons, to investigate, consider and report to the

next session of the Legislature of this State a plan of legislation looking to the improvement of the highways of this State, and also to report as to the practicability of using convict labor in connection with such improvement.

Such commission to serve without pay, except for expenses, which shall be audited by the Board of State Auditors, upon sworn statement to be approved by the Governor, and not to exceed in the aggregate the sum of five hundred dollars, which sum is hereby appropriated therefor.

On motion of Mr. Diekema, the rule was suspended, two-thirds of all the members voting therefor, and the concurrent resolution was placed upon its immediate consideration.

The concurrent resolution was adopted.

On motion of Mr. Connor,

The following concurrent resolution relative to the final adjournment was taken from the table:

*Resolved by the House of Representatives (the Senate concurring), That from and after August 6, 1892, the two houses of the Legislature will transact no business other than for the President of the Senate and the Speaker of the House to sign enrolled bills for the approval of the Governor, and the entry of the same on the Journal by the Secretary of the Senate and Clerk of the House, and the time of final adjournment of the Legislature shall be August 8, 1892, at 12 o'clock noon of that day.*

Mr. Connor moved that the rule be suspended and the concurrent resolution be placed upon its immediate consideration.

Which motion prevailed, two-thirds of all the members voting therefor.

The question being on the adoption of the concurrent resolution,

The resolution was adopted.

On motion of Mr. Rockwell,

The House took a recess until 4 o'clock P. M.

#### AFTER RECESS.

4 o'clock P. M.

House met and was called to order by the Speaker.

Quorum present.

#### MESSAGES FROM THE SENATE.

The Speaker announced the following: •

SENATE CHAMBER,  
Lansing, August 6, 1892. }

*To the Speaker of the House of Representatives:*

SIR—I am instructed to return to the House the following bill:

House bill No. 4,

A bill to apportion anew the representatives among the several counties and districts of this State.

In the passage of which the Senate has concurred by a majority vote of all the Senators elect, and by a vote of two-thirds of all the Senators elect has ordered the same to take immediate effect.

Very respectfully,

ALFRED J. MURPHY,

Secretary of the Senate.

On motion of Mr. Barkworth,

By a vote of two-thirds of all the members elect the bill was ordered to take immediate effect.

The bill was then referred to the committee on engrossment and enrollment for enrollment.

On motion of Mr. Diekema,

Senate bill No. 1 (file No. 1), entitled

A bill for the apportionment of Senators in the State Legislature,

Which passed the House by a vote of two-thirds of all the members elect, was ordered to take immediate effect.

By unanimous consent,

Mr. Diekema moved that a special committee of three be appointed to investigate the matter of boards of supervisors meeting to apportion the counties having more than one representative;

Which motion prevailed.

The Speaker appointed as such committee Messrs. Diekema, Jackson and Connor.

The Speaker *pro tem.* took the chair.

The Speaker *pro tem* also announced the following:

SENATE CHAMBER, }  
Lansing, Aug. 6, 1892. }

*To the Speaker of the House of Representatives:*

SIR—I am instructed to return to the House the following concurrent resolution:

*Resolved* (the Senate concurring), That the Governor is hereby authorized to appoint a commission, to consist of three persons, to investigate, consider and report to the next session of the Legislature of this State a plan of legislation looking to the improvement of the highways of this State and also report as to the practicability of using convict labor in connection with such improvement.

Such commission to serve without pay except for expenses, which shall be audited by the Board of State Auditors upon sworn statements, to be approved by the Governor, and not to exceed in the aggregate the sum of five hundred dollars, which sum is hereby appropriated therefor.

In the adoption of which the Senate has concurred by a majority vote of all the Senators elect.

Very respectfully,

ALFRED J. MURPHY,

*Secretary of the Senate.*

Referred to the committee on engrossment and enrollment for enrollment.

The Speaker *pro tem.* also announced the following:

SENATE CHAMBER, }  
Lansing, August 6, 1892. }

*To the Speaker of the House of Representatives:*

SIR—I am instructed to return to the House the following concurrent resolution:

*Resolved by the House of Representatives* (the Senate concurring), That from and after August 6, 1892, the two houses of the Legislature will transact no business other than for the President of the Senate and Speaker of the House, to sign enrolled bills for the approval of the Governor, and entry of the same on the journal by the Secretary of the Senate

and Clerk of the House, and the time of final adjournment of the Legislature shall be August 8, 1892, at 12 o'clock noon of that day.

In the adoption of which the Senate has concurred by a majority vote of all the Senators elect.

Very respectfully,  
**ALFRED J. MURPHY,**  
*Secretary of the Senate.*

The message was laid on the table.

The Speaker also announced the following:

SENATE CHAMBER, }  
 Lansing, Aug. 6, 1892. }

*To the Speaker of the House of Representatives:*

SIR—I am instructed to transmit to the House the following concurrent resolution:

*Resolved by the Senate* (the House of Representatives concurring), That the Secretary of State be and is hereby authorized to have printed maps of the new senatorial and representative districts, of proper size for insertion in the Legislative Manuals of 1891, a sufficient number of maps to be printed to allow each member of the Legislature one hundred copies of the map.

Which has been adopted by the Senate, by a majority vote of all the Senators elect, and in all of which the concurrence of the House is respectfully asked.

Very respectfully,  
**ALFRED J. MURPHY,**  
*Secretary of the Senate.*

The question being on concurring in the resolution,

The resolution was concurred in.

Mr. Connor moved that there be a call of the House,

Which motion prevailed.

#### PROCEEDINGS UNDER THE CALL.

The roll of the House was called by the Clerk and the following members reported absent without leave: Messrs. Botsford, Buell, Canfield, Carpenter, Denning, Dodge, Fildew, Holton, Houghton, Marsh, McCloy, McGovern, Miller, Munthe, Osborn, Perkins, St. Clair and Tripp.

On motion of Mr Marion,

The Sergeant-at-Arms was dispatched after any absentees who could be found in the city.

By unanimous consent,

*To the Honorable Speaker and Members of the House of Representatives:*

Your committee appointed to examine the constitution and statutes of this State for the purpose of ascertaining whether any necessity exists for the calling of special sessions of the boards of supervisors in those counties of the State entitled to more than one Representative in the State Legislature, beg leave to report that they have carefully examined the subject referred to them, and are of the opinion that such special sessions of the boards of supervisors should be held, and have prepared a bill providing therefor, which bill they ask unanimous consent to introduce.

G. J. DIEKEMA,  
 ROWLAND CONNOR.

Mr. Diekema, unanimous consent having been given, introduced House bill No. 6, entitled

A bill providing for the holding of special sessions of the boards of supervisors in the year 1892, in all counties of the State entitled to more than one Representative in the State Legislature.

The bill was read a first and second time by its title, and

Pending its reference,

Mr. Diekema moved that all rules conflicting therewith be suspended and the bill be placed upon its immediate passage;

Which motion prevailed, two-thirds of all the members present voting therefor.

The bill was then read a third time and not passed, a majority of all the members elect not voting therefor, by yeas and nays, as follows:

#### YEAS.

Mr. Alexander	Mr. Eaton, R. C.	Mr. Lowden	Mr. Shull
Barkworth	Ferguson, A. F.	Lusk	Smith, A. A.
Barnard	Ferguson, M.	Marion	Smith, F. H.
Blake	Fitch, C. C.	McGovern	Smith, W. O.
Bowen	Fitch, Norton	Miller	Spencer
Chisholm	Harry	Northup	St. Clair
Church	Harwood	Osborn	Swift
Clapp	Holden	Perkins	Tinklepaugh
Collins	Johnson, H.	Raymond	Wagner
Curtiss	Knight	Richardson	Watts
Dafoe	Lambert	Rowden	Wiggins
Diekema	Lester	Ryland	Speaker
Eaton, C. L.			

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#### NAYS.

Mr. Dodge	Mr. Jackson, W. B.	Mr. McCloy	Mr. Tripp
Herz	Leach	Munthe	White
Holton			

9

On motion of Mr. Lowden,

All further proceedings under the call were dispensed with.

Mr. Rockwell moved that a committee of three be appointed by the Speaker to wait upon the Governor and inquire if he has any further communication to make to this House.

After a short absence the committee returned and reported that His Excellency informed the House that he had no further communications to make, except to congratulate the House upon the very admirable manner in which they had performed the duties for which they had been convened.

Report accepted and committee discharged.

By unanimous consent,

By the committee on engrossment and enrollment:

The committee on engrossment and enrollment report as correctly enrolled, signed and presented to the Governor the following:

House bill No. 4, being

An act to apportion anew the Representatives among the several counties and districts of this State.

Also,

House concurrent resolution, entitled

Concurrent resolution authorizing the Governor to appoint a commission to investigate as to the best methods of improving the highways of this State and the employment of convict labor therefor.

W. A. BLACK, *Chairman.*

Report accepted.

By unanimous consent,

Mr. Bathey offered the following:

*Resolved*, That a committee of three be sent to the Senate informing that body that the House has cleared its docket and is now ready to adjourn, and is awaiting the pleasure of the Senate.

The resolution was adopted.

The Speaker appointed as such committee Messrs. Bathey, Clapp and Herz.

After a short absence the committee returned and reported that they had performed the duty assigned them.

Report accepted and committee discharged.

Mr. L. S. Johnson moved that the House now adjourn until Monday next at 11:40 o'clock A. M.

Which motion prevailed.

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*Lansing, Monday, Aug. 8, 1892.*

The House met pursuant to adjournment and was called to order by Mr. A. F. Ferguson, acting Speaker.

Roll called: not a quorum present.

Present: Messrs. A. F. Ferguson, S. P. Jackson, L. S. Johnson, Spencer and Lester.

#### MESSAGE FROM THE GOVERNOR.

The acting Speaker announced the following:

EXECUTIVE OFFICE, }  
*Lansing, Mich., Aug. 8, 1892.* }

*To the Speaker of the House of Representatives:*

I have this day signed, approved and deposited in the office of the Secretary of State.

House bill No. 4, entitled

An act to apportion anew the Representatives among the several counties and districts of this State.

EDWIN B. WINANS, *Governor.*

The message was laid on the table.

The hour of twelve o'clock (noon) having arrived, the acting Speaker declared the House adjourned *sine die*.

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HOUSE OF REPRESENTATIVES, }  
*Lansing, August 8, 1892.* }

I hereby certify that the foregoing is a correct Journal of the proceedings of the House of Representatives of the Legislature of Michigan, in special session in the year 1892.

LYMAN A. BRANT,  
*Clerk of the House of Representatives.*





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# INDEX.

This index contains the following named matter, and arranged in the order here indicated:  
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 2d. Complete history of each House bill, with introduction number.  
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